

ANNEXATION AND DEVELOPMENT AGREEMENT

FOR

THE CANYONS

DATE: SEPTEMBER 24, 2009

APPROVAL OF THIS ANNEXATION AND DEVELOPMENT AGREEMENT CONSTITUTES APPROVAL OF A SITE SPECIFIC DEVELOPMENT PLAN THAT CREATES VESTED PROPERTY RIGHTS AND A DEVELOPMENT AGREEMENT THAT EXTENDS THE TERM OF THE VESTED PROPERTY RIGHTS FOR A PERIOD OF MORE THAN THREE YEARS, PURSUANT TO ARTICLE 68, TITLE 24, C.R.S., AS AMENDED

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ANNEXATION AND DEVELOPMENT AGREEMENT

THIS ANNEXATION AND DEVELOPMENT AGREEMENT is made and entered into as of September 24, 2009, by and among NORTH CANYONS, LLLP, a Colorado limited liability limited partnership, JUDGE INC., a Colorado corporation, CANYONS METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado, and THE CITY OF CASTLE PINES NORTH, a Colorado municipal corporation.

RECITALS

This Agreement is made with respect to the following facts:

A. Unless a different meaning is clearly indicated, capitalized terms used in this Agreement have the meanings set forth in Appendix A of this Agreement.

B. Owners are the fee owners of the Property, as more particularly described in Appendix B attached to this Agreement.

C. Owners desire to develop the Property as a planned development known as The Canyons, as more specifically set forth in this Agreement and the PD Plan, which will include retail, commercial, residential and other similar uses, all as more particularly set forth in the PD Plan.

D. Development of the Project will require Owners, Developers, Infrastructure Provider, the Service District and/or the Districts to provide large investments in infrastructure improvements and public facilities, including, without limitation, roads, drainage facilities, sanitary sewer, water lines, grading, recreational trails, parks and recreation facilities which will serve the needs of the Project and the City. Completion of these improvements and facilities will require substantial investments by Owners and/or the Districts. Such investments can be supported only if there are assurances that the development of the Project will be allowed to proceed to ultimate completion as provided in this Agreement.

E. Following annexation and as the Project develops, the City reasonably anticipates that it will receive certain tax revenues and fee revenues from the Property and the Project. Completion of the Project in accordance with the terms of the Development Plan is anticipated to contribute substantially to the economic growth of the City and, consequently, will increase tax revenues to the City.

F. The legislature of the State of Colorado adopted the Vested Property Rights Statute to provide for the establishment of vested property rights in order to ensure reasonable certainty, stability and fairness in the land use planning process and in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning. The Vested Property Rights Statute authorizes the City to enter into development agreements with landowners providing for vesting of property development rights for a period exceeding three years.

G. Consistent with the Vested Property Rights Statute, the Vested Property Rights Regulations authorize the City to designate a plan for development as a Site Specific Development Plan by agreement with landowners, and to enter into development agreements with landowners providing for the vesting of property development rights consistent with the Vested Property Rights Statute.

H. Pursuant to section 24-68-102.5(1), C.R.S., of the Vested Property Rights Statute, the City and Owners intend that development of the Project will, during the Vesting Term, be governed by the Development Plan and, to the extent not in conflict with the Development Plan, by City Code subject to the terms, conditions and limitations set forth in this Agreement.

I. Development of the Property in accordance with this Agreement is expected to provide for orderly growth in accordance with the policies and goals set forth in the Comprehensive Plan, ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic growth, secure the reasonable investment-backed expectations of Owners, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes for which the Vested Property Rights Statute and the Vested Property Rights Regulations were enacted.

J. In exchange for these benefits and the other benefits to the City contemplated by this Agreement, together with the public benefits served by the orderly development of the Property, the City desires to provide assurance to Owners and the Service District that they may proceed with development of the Property pursuant to the terms and conditions of the Development Plan, including the land uses and densities approved in the PD Plan, the development standards and procedures established by this Agreement, the revenue sharing provisions of this Agreement, and the allocation of certain development-related obligations among Owners, Developers and the Districts as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owners and the City agree as follows:

ARTICLE 1 **GENERAL PROVISIONS**

1.1 Incorporation of Recitals and Appendices. The foregoing recitals and each Appendix to this Agreement are hereby incorporated into and made substantive terms of this Agreement.

1.2 Nature of and Authority for Agreement. As between the City and Owners, this Agreement constitutes a development agreement pursuant to the Vested Property Rights Statute and the Vested Property Rights Regulations, and is a Site Specific Development Plan that creates Vested Property Rights. As between the City and the Service District, Articles 1, 3, 4, 5, 7 and 8 of this Agreement constitute an intergovernmental agreement pursuant to section 29-1-203, C.R.S., which permits governments to contract with one another to provide any function, service

or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt.

1.3 Relationship to City Code. The express terms and provisions of each constituent element of the Development Plan, and any subsequently approved amendment to any constituent element of the Development Plan, are intended to control over any conflicting provisions of the City Code. Except to the extent that an express term or provision of any constituent element of the Development Plan and/or any subsequently approved amendment to any constituent element of the Development Plan conflicts with an express provision of the City Code, the City Code will apply to the Property and the Project in the same manner as it applies to all other properties located within the City.

1.4 Relationship to Development Plan. The express provisions of the Development Plan will control and govern zoning and development of the Property, and will control and govern over any conflicting provision of this Agreement or the City Code (including without limitation any ordinances and resolutions of the City or parts thereof). In the case of any express or implied conflict between this Agreement and other constituent elements of the Development Plan, this Agreement will be construed in the manner which most fully implements the intent and purpose of the Development Plan.

1.5 City Obligations. In addition to performing its other obligations under this Agreement, except to the extent expressly provided otherwise in this Agreement, the City will provide to the Property and the Project all applicable municipal and governmental services which the City provides to other similarly situated properties in the City, and will continuously provide and charge (if applicable under the City Code and this Agreement) for such governmental services in a uniform and nondiscriminatory manner, subject to the terms and conditions of the Development Plan and, to the extent not inconsistent with the Development Plan, the City Code. Pursuant to the terms and conditions of this Agreement, and subject to Section 5.5 of this Agreement, the City's obligations with respect to the following specific municipal services are:

A. Water. Water service will be provided by Parker Water and Sanitation District ("PWSD") as contemplated in Section 4.5 of this Agreement. The City will have no obligation to provide water service to the Project, and the Property will not be subject to City taxes or fees related to the provision of water service or related capital facilities. If the City undertakes in the future to provide water services within other areas of the City and imposes a mill levy or other fees or assessments against the Property for such services, the provisions of Section 5.5 of this Agreement will apply.

B. Sanitary Sewer. Sanitary sewer service will be provided by PWSD as contemplated in Section 4.5 of this Agreement. The City will have no obligation to provide sanitary sewer service to the Project, and the Property will not be subject to City taxes or fees related to the provision of sanitary sewer service or related capital facilities. If the City undertakes in the future to provide sanitary sewer services within other areas of the City and imposes a mill levy or other fees or assessments against the Property for such services, the provisions of Section 5.5 of this Agreement will apply.

C. Fire. As of the Effective Date, fire protection services are provided to the Property by South Metro Fire District and by Castle Rock Fire Protection District, and the Property is subject to the mill levy of such service providers. If the City undertakes in the future to provide fire protection services to the Property and imposes a mill levy or other fees or assessments against the Property for such services, the provisions of Section 5.5 of this Agreement will apply and the City will pursue exclusion of the Property from the boundaries of South Metro Fire District and/or Castle Rock Fire Protection District pursuant to section 32-1-502, C.R.S.

D. Police. As of the Effective Date, police services are provided to the Property by the City pursuant to a contract with Douglas County Law Enforcement, and the Property is subject to the mill levy of such service provider. If the City undertakes in the future to directly provide police services within the City's entire municipal boundaries, the Property will be subject to any taxes and fees levied by the City for such police services, and the provisions of Section 5.5 of this Agreement will apply.

E. Street Maintenance and Snow Removal. Except as this Agreement expressly provides otherwise, the City will be responsible for maintenance and snow removal of all public streets within the Project which have been Dedicated to and accepted by the City, subject to applicable warranty periods and requirements as set forth in the applicable Project SIA or Site SIA.

F. Storm Drainage. As of the Effective Date, storm drainage services are provided to the Project by the City and may be undertaken by Urban Drainage & Flood Control District

1.6 Owners' Obligations. The Parties anticipate that the Project will not be sufficiently developed to generate increased revenues to the City for some period after annexation of the Property. The purpose of this Section 1.6 is to establish a mechanism to give the City reasonable assurance that it will not be providing municipal services to the Property without realizing sufficient revenue from the Property during the pre-development phase of the Project, especially with regard to the commercial and retail elements of the Development Plan. The Parties recognize that the level of municipal services required to serve the Property envisioned by the Development Plan at full build-out will be greatly in excess of the services required to serve the Property in a purely residential configuration, and the City does not have a system of impact fees in place to help defray the costs of providing such municipal services. Accordingly, the Parties have reasonably determined the costs to the City of providing municipal services to the Property in the future based on its full build-out potential and have agreed on a payment schedule for such amounts as set forth herein. Therefore, in consideration of the City performing its future obligations under this Agreement and in reliance on the vested rights established hereunder, Owners will, in addition to performing their other future obligations under this Agreement and in order to defray the cost to the City of providing municipal services to future development on the Property:

A. Pay to the City after its approval of this Agreement and the PD Plan:

(i) \$1,976,400, payable no later than 30 days following the Effective Date or such earlier date as determined by Owners in their discretion; and

(ii) \$773,600 [Payment amount subject to further discussion], payable upon the later to occur of (1) termination or amendment of the HOA Agreement (as defined below in Section 1.7) such that the Property can be developed in accordance with the maximum entitlement shown on the PD Plan and (2) resolution of all outstanding issues with the Denver Regional Council of Governments such that the Property can be developed in accordance with the maximum entitlement shown on the PD Plan.

B. Dedicate to the City a total of 20 acres to be located within areas designated on the PD Plan "Open Space Active," "Open Space Limited," or "Farm" with such Dedication(s) to be effected upon the earlier to occur of either (i) recordation of the final subdivision plats(s) for the phase(s) of the Project including such Site(s); or (ii) a request from the City for such Site(s), provided the City (a) has a designated use for the Site(s), which it intends to implement within a reasonable amount of time following the Dedication; and (b) the Site(s) is located within an area of the Property provided with utility and infrastructure service at the time of the City request. The City may use such acreage for active or limited open space uses in accordance with the PD Plan. To the extent the City wishes to use such acreage for municipal purposes that are not permitted uses under the PD Plan, an amendment to the PD Plan must be processed in accordance with Section 8.7 of this Agreement. Owners will reasonably cooperate with the City in processing such an amendment; provided, however, that Owners will not be obligated to authorize or consent to any amendment that proposes a use which Owners reasonably determine to have a materially adverse impact on other Sites in the vicinity of the City-owned parcel(s), such as, by way of example, the use of City property for a public works storage yard adjacent to residential or other incompatible uses. The site(s) Dedicated to the City will be subject to all terms and conditions of the PD Plan, and will be further subject to all design review requirements and procedures to be established for the Project by Owners' recordation of covenants therefore.

1.7 Conflicts. The PD Plan provides that unless and until Owners terminate or amend that certain agreement by and between Owners and Happy Canyon Estates Homeowner's Association and the Pinery Homeowner's Association, dated August 31, 2001, recorded in the real property records of Douglas County, Colorado, on September 1, 2001, at Reception No. 00061774 (the "HOA Agreement"), the terms of the HOA Agreement control over the terms of PD Plan. Similarly, to the extent any term of this Agreement conflicts with the HOA Agreement, unless and until Owners terminate or amend the HOA Agreement, the terms of such agreement will control over this Agreement. Accordingly, the amount of land Owners are obligated to Dedicate to the City as described herein, specifically with regard to streets, open space, parks and trails and schools, is based on full build out of the Property in accordance with the unrestricted Development Plan, including without limitation 2500 residential units and those portions of the Property to be located in the Mixed Use zone district. If Owners are unable to amend or terminate the HOA Agreement such that the Property may be fully developed in accordance with the PD Plan, the City and Owners will enter into an amendment to this Agreement, to, among other things, alter the amount of land Owners are obligated to Dedicate to

the City, such that the amount of such land dedication will be commensurate with the development permissible on the Property pursuant to the HOA Agreement, as the same may be amended.

1.8 Covenants. The provisions of this Agreement constitute covenants or servitudes which touch, attach to and run with the land comprising the Property. The burdens and benefits of this Agreement will bind and inure to the benefit of all Parties hereto and all successors in interest to the Parties to this Agreement, except as otherwise provided in Section 8.17 below.

ARTICLE 2 **ANNEXATION**

2.1 Annexation. Owners have submitted petitions requesting annexation of the Property to the City and, concurrently with approving execution of this Agreement, the City has taken final action to adopt ordinances approving annexation of the Property, consistent with the terms and conditions of the annexation petitions and this Agreement, and has taken all required action incident thereto including, but not limited to, publication of all required notices and the holding of all required hearings regarding the annexation of the Property.

2.2 Conditions Precedent. Annexation of the Property will not be legally effective unless and until the conditions precedent set forth in subparagraphs A through G of this Section 2.2, satisfaction or Owners' waiver of which are absolute conditions precedent to annexation of the Property becoming effective as a matter of law, have been satisfied. The City and Owners will cooperate in good faith to obtain Final Approval of:

A. pursuant to section 31-12-111, C.R.S., ordinances approving annexation of the Property without imposition of terms and conditions other than those set forth in this Agreement, the PD Plan or the annexation petitions; and

B. an amended or new Comprehensive Plan which, as such Comprehensive Plan relates to the Property, is in form and substance materially consistent with the PD Plan; and

C. pursuant to section 31-12-115(1), C.R.S., the PD Plan in a form and substance materially consistent with Owners' application therefor and satisfactory to Owners; and

D. this Agreement; and

E. the Sales/Use Tax Credit; and

F. pursuant to section 32-1-204.7, C.R.S., one or more resolutions, the effectiveness of which may be made contingent upon annexation of the Property becoming legally effective, pursuant to which the City (i) accepts designation as the approving authority for The Canyons Metropolitan District Nos. 1 through 4; and (ii) approves amendments to the service plans for such Districts in form and substance materially consistent with the applications therefore submitted by the boards of such Districts; and

G. pursuant to section 32-1-204.5, C.R.S., one or more resolutions, the effectiveness of which may be made contingent upon annexation of the Property becoming legally effective, pursuant to which the City approves service plans for The Canyons Metropolitan District Nos. 5 through 11 in form and substance satisfactory to Owners.

Pending satisfaction or Owners' waiver of the conditions precedent, Owners reserve the right to withdraw the petitions for annexation of the Property at any time prior to recordation of the instruments described in section 31-12-113(2)(a)(II)(A), C.R.S., if: (i) a Legal Challenge occurs; or (ii) the City fails to perform any of its obligations under this Agreement. Accordingly, unless and until each of the conditions precedent have been satisfied or waived by Owners, neither Owners nor the City will record or cause to be recorded the instruments described in section 31-12-113(2)(a)(II)(A), C.R.S., or any of the instruments described in items A through G above (or any memorandum thereof), it being the Parties' intent that annexation of the Property will not be legally effective unless and until such recording of the instruments described in section 31-12-113(2)(a)(II)(A), C.R.S., occurs, and that the Parties will cause such recordings to occur promptly after satisfaction or Owners' waiver of the conditions precedent. For all purposes of this Section 2.2, Owners hereby designate North Canyons, LLLP as their authorized representative for purposes of determining whether the foregoing conditions have been satisfied and for exercising all rights of Owners hereunder.

ARTICLE 3

ZONING AND DEVELOPMENT

3.1 Zoning. Zoning and development of the Property will be governed by the terms and conditions of the PD Plan, the Development Plan and the Zoning Ordinance (to the extent application of the City Code does not directly or indirectly conflict with or impair any express provision of the PD Plan or the Development Plan). The Property will not be subject to any urban growth boundary restrictions. If the City becomes subject to urban growth boundary restrictions under Denver Regional Council of Governments procedures, the City will assure that the Property is fully included within the City's urban growth boundary allocation.

3.2 Platting Procedures. Subdivision plats for Sites within the Property will be processed in accordance with the Subdivision Ordinance, as modified by the following provisions:

A. Sketch Plan. The sketch plan procedures and requirements set forth in the City Code will not apply to the Property.

B. Superblock Plat and Administrative Replats. Owners may submit Development Applications for, and the City will process, one or more Superblock Plats. The backbone infrastructure Public Improvements (i.e., streets providing public access to each Superblock, water and sanitary sewer mains) required in connection with each Superblock Plat will be as set forth in the Project SIA for each Superblock Plat. Development within each Superblock will be subject to submittal and approval of a Development Application for one or more site improvement plans for Sites within the Superblock, and may require replat of the Superblock in accordance with the procedures

set forth in subsection 3.2B(ii) below. The obligation to construct and install Public Improvements internal (and site specific) to the Superblocks will be deferred until and determined at the time of and in accordance with replat approval (after the City's approval of the Superblock Plat Application), or site improvement plan approval if no further subdivision is required, for the applicable Superblock(s). A Site SIA or SIPIA will be executed in connection with such replat(s) and/or site improvement plan(s).

(i) Superblock Plat Procedures. Pursuant to Section 502.02 of the Subdivision Ordinance (without the need of further approval for such procedure), Superblock Plat applications will be processed as a combination preliminary plat/final plat utilizing the procedures set forth in article 5 of the Subdivision Ordinance, subject to the following modifications:

(a) Public notice will be given in accordance with Section 408.

(b) Section 504 will be modified as necessary to conform with the processing timeline set forth in Section 3.3 of this Agreement, the provisions of which supersede and control over any conflicting provisions of the Subdivision Ordinance.

(c) Section 505.02.6 will not apply.

(d) Section 505.08 will not apply.

(e) Section 508 will not apply. Vested property rights will be governed by Article 6 of this Agreement.

(f) Section 509.03 is modified as follows: "At the time of application for the first construction permit for property subject to the plat, the applicable Developer(s) will provide proof that adequate security has been provided to cover the subdivision improvement costs in accordance with applicable roadway design and construction standards, and any other fees and performance bonds. At the time of application for such first construction permit, the applicable Developer(s) will update the construction costs related to the public improvements contained on the construction documents approved in connection with the plat and the security required to cover such subdivision improvements will be based on such revised construction costs, as approved by the City."

(g) All dedications required by sections 509.05 and 509.06 will be made by special warranty deed. The applicable Developer(s) will provide an ALTA Owner's Policy insuring appropriate title to Dedicated property in the City. The amount of insurance will be calculated based on the fair market value of such property at the time of Dedication.

(ii) Administrative Replat Procedures. If further subdivision of a Superblock is desired or necessary prior to development of Site(s) within the

applicable Superblock, the Development Application for such further subdivision will be processed as an administrative replat as follows:

(a) The approval standards will be as set forth in Sections 703A and 704.05 through 704.10 the Subdivision Ordinance.

(b) The submittal requirements will be as set forth in Section 705 of the Subdivision Ordinance.

(c) The processing timeline set forth in Section 3.3 of this Agreement will apply, the provisions of which supersede and control over any conflicting provisions of the Subdivision Ordinance.

(d) The plan exhibit requirements will be as set forth in Section 707 of the Subdivision Ordinance.

(e) The development report requirements will be as set forth in Section 708 of the Subdivision Ordinance.

(f) Recordation of the administrative replat will be subject to the requirements set forth in Section 710 of Subdivision Ordinance; provided, however, that all Dedication required by subsections 710.05 and 710.06 will be made by special warranty deed. The applicable Developer(s) will provide an ALTA Owner's Policy insuring appropriate title to Dedicated property in the City. The amount of insurance will be calculated based on the fair market value of such property at the time of Dedication.

The foregoing administrative replat procedures supersede and control over any conflicting provisions of the Subdivision Ordinance, and will constitute the exclusive procedures for replatting of Superblocks.

3.3 Defined Processing Timeline. The City will review and process all submittals of any plans, specifications, drawings, details, building permit applications or other Development Applications for the Property and the Project in a prompt and efficient manner, in accordance with applicable ordinances, codes, regulations, policies and procedures, and in a manner that substantially complies with the express terms and conditions of the Development Plan. Without limitation of the foregoing, and notwithstanding any conflicting provisions of the Development Standards or the City Code, the following provisions will supersede and control with respect to the processing timeline for Development Applications:

A. Development Application Review. Submittal of complete and thorough applications for preliminary plats, final plats, Superblock Plats and site development plans, together with all related documentation and approval processes, including Project SIAs, Site SIAs, SIPIAs and construction drawings will contribute to the quality and the pace of development within the Property. The City and each Developer will comply with the terms and conditions of subsections B through 3.3A of this Section 3.3 regarding the preparation, submittal and review of Development Applications, provided that nothing

herein will be interpreted to guarantee to Owners an approval of any particular Development Application.

B. Developer's Responsibilities. The applicable Developer(s) will prepare Development Applications in a manner that is consistent with this Agreement, the Development Plan and applicable City Code provisions (to the extent not inconsistent with this Agreement). Before submitting a Development Application to City, the applicable Developer and the City will each designate the person or persons to participate in the Project Team for that Development Application. The Project Team will establish a regular meeting schedule and will meet regularly and as often as the parties deem necessary and appropriate to meet applicable requirements for pre-application meetings and to meet the applicable timelines for review of the Development Application as set forth in this Section 3.3.

Prior to a Developer's first submittal of a Development Application, and at no expense to the City, the applicable Developer will have a qualified professional who was not involved in the preparation of the Development Application review such Development Application to determine that it is complete, and the Developer will provide evidence of such review to City at the time the Development Application is submitted. Once a Development Application is deemed complete (see subsection C below), the Project Team will reasonably agree upon a schedule of intermediate reviews of the Development Application at predetermined stages of design and will thereafter meet on a regular basis as reasonably agreed by the Project Team to be necessary and appropriate to monitor the progress of the Development Application, to attempt to informally resolve any issues that may arise in the course of the review, and to provide additional or supplementary information as necessary to meet the timelines set in this Section 3.3.

Upon receipt of formal comments from the City on any Development Application, the applicable Developer will respond to such comments according to the following schedule:

(i) First set of City comments: Within 28 days of receipt of a complete set of comments from City.

(ii) Second set of City comments: Within 35 days of receipt of a complete set of comments from City, provided that the applicable Developer will have 30 days in which to respond to any new comments relating to the initial submittal that were not included in the first set of City comments.

(iii) Third set of City comments: Within 14 days of receipt of a complete set of comments from City, provided that the applicable Developer will have 30 days in which to respond to any new comments relating to the initial submittal or any subsequent submittals that were not included in any of the previous City comments.

C. City Responsibilities. Upon submittal of any Development Application, City will have 10 business days in which to notify the applicable Developer with

particularity of any incomplete items in the Development Application. The applicable Developer will promptly rectify the incompleteness of the Development Application as reasonably determined by City. The Development Application will be deemed complete when the applicable Developer has addressed the City's particular itemization of incompleteness, or if City does not give the notice within the required 10 business day period.

The City will complete its review and decision process, except for any required public hearings by planning commission or City Council, for each complete Development Application as soon as practicable, but in any event, within 6 months. This 6 month staff review period will apply to all reviews and decisions that are required in connection with a specific Development Application (for example, staff review of associated Project SIA, Site SIA, or SIPIA and construction drawings will also be completed within the 6 month time period). The City will furnish formal comments to the applicable Developer in a sufficiently timely manner to enable Owners to respond according to subsections 3.3B(i) through (iii) above, and achieve completion of the staff review within the 6 month staff review period.

If the applicable Developer fails to respond to City comments on a Development Application in accordance with subsections 3.3B(i) through (iii) above or fails to submit required Development Application documents which substantially comply with applicable City regulations, the 6 month time periods for staff review will be extended by 2 days for each day of delay in the applicable Developer's response, up to a maximum of 120 days. If a public hearing is not required for a Development Application under the terms and conditions of this Agreement, the City and the applicable Developer will cooperate to take any final administrative steps needed to accomplish the City's final and formal approval of the applicable Development Application and to allow the issuance of public works and building permits within the area subject to the Development Application (including, by way of example, but not by way of limitation, execution of mylar copies and recordation of final plats and the Project SIA, Site SIA or SIPIA, as applicable) within the 6 month staff review period.

The City will use best efforts to hold any required public hearings on a Development Application before the planning commission as soon as possible, but in no event more than 30 days after the completion of staff review, and to hold a public hearing before the City Council at the next regularly scheduled City Council meeting after Planning Commission acts on the particular Development Application. Notwithstanding the foregoing, Owners acknowledge that the scheduling of public hearings must be in conformance with applicable the public noticing requirements. Failure of the applicable Developer or other outside agency to properly complete the required public noticing will not constitute a default by the City, provided that such failure is not caused by City error.

D. Fees. As of the Effective Date, the City utilizes a third party consultant to perform the staff review functions described in this Section 3.3, and the applicable Developer will be responsible for payment of generally applicable City fees for review of such applications as in effect at the time of the applicable Development Application. If the City subsequently undertakes to perform such review functions with in-house City

staff, the applicable Developer will be responsible for payment of generally applicable City fees for review of such applications as in effect at the time of the applicable Development Application; provided, however, if the City reasonably determines that it is unable to meet the obligation to complete staff review within the foregoing 4 month timeframe, the City will have the option to hire one or more third party consultants to assist the City in the staff review of Development Applications. If such third-party review consultants are utilized, the applicable Developer will be responsible for direct payment of such third-party review consultant's reasonable fees. Prior to the initiation of any work by a third-party review consultant, a detailed cost estimate outlining all hourly rates, fees and charges payable for such services will be provided to the applicable Developer for review and reasonable approval, provided, however, that any unreasonable delay on the part of the applicable Developer in reviewing such cost estimates will constitute delay which extends the City's staff review period by 2 days for each day of delay as provided in subsection C above. Third-party review consultant fees related to a Development Application will be paid prior to and as a condition to administrative approval or City Council hearing on such Development Application, as applicable. Any payments made to a third-party review consultant in accordance with this section will be in addition to any applicable fees or charges imposed by the City as a condition to the submittal of a Development Application.

E. Annual Review. Effective administration of the terms and provisions of this Section 3.3 will require effective communication and coordination between the parties. Accordingly, representatives of Owners will meet on an annual basis with the City Manager, City Attorney and/or the City's Director of Community Development to review the status of development within the Property, the performance of both City and Owners under this Section 3.3, and such other matters relating to this Section 3.3 as the parties may determine. Failure to have this annual meeting will not constitute a default by either Owners or the City hereunder.

3.4 Application of City Code. All procedures for processing of Development Applications, and all substantive, procedural, engineering, commercial design and development standards and other technical requirements and standards set forth in the Development Plan will, notwithstanding any provision of the City Code to the contrary, govern and control with respect to zoning, subdivision, and other matters affecting development of the Property and Public Improvements obligations with respect thereto. Procedures, standards and requirements associated with Public Improvements and assurance of completion obligations will be governed by the applicable Project SIA, Site SIA, and/or SIPIA. To the extent the City Code addresses matters not addressed in the Development Plan, the City Code provisions will apply to and govern development within the Property to the extent such application does not directly or indirectly conflict with or impair any express provision of the Development Plan.

ARTICLE 4

DEVELOPMENT PLAN AND PUBLIC IMPROVEMENT OBLIGATIONS

4.1 Allocation of Development Obligations. The Public Improvement obligations described in this Agreement are intended to be allocated among Owners and the Developer of a Site based on the relationship between the particular Public Improvement, the Site owned by the

particular Developer, and the nature of the development occurring on the Site. Accordingly, references to Owner(s) in this Article 4 will be construed to include by reference the applicable Developer of a Site. To the extent this Agreement does not specifically allocate Public Improvement obligations required in connection with the Project, the allocation will be set forth in the Project SIA, Site SIA or in an SIPIA executed in connection with the processing and approval of Development Applications submitted after the Effective Date. The applicant for such subsequently submitted Development Applications will provide assurance of completion of the Public Improvements as required by the City Code (as in effect on the Submittal Date of the relevant Development Application) and as more particularly described in the applicable Project SIA, Site SIA and/or SIPIA to be executed in connection with future Development Application approvals. The City will prepare and process any required update or amendment to a Project SIA in a timely manner so as to not delay the processing and final action on any Development Application in accordance with the terms and conditions of this Agreement and the Development Standards. As described in Section 4.11 of this Agreement, references to Owner(s) or to Developer(s) in the context of the Public Improvement obligations addressed in this Agreement will be construed to include by reference the applicable District(s) to the extent the District(s) have assumed the obligations of an Owner or a Developer pursuant to the terms of this Agreement. To the extent that one or more Districts assume obligations addressed in a Project SIA, Site SIA or in an SIPIA, the District may also provide assurance of completion. A District may assume such obligations either by execution of the applicable Site SIA, Project SIA or SIPIA, or by subsequently entering into an intergovernmental agreement with the City. In either case, the District may provide, and the City will accept, assurance of completion in the form of a pledge of budgeted and appropriated funds of the District in an amount equal to 115% of the estimated cost of the Public Improvements for which the District has assumed responsibility. Such budgeted and appropriated funds of the District will be placed in a segregated escrow account that the City may access in accordance with the terms of a mutually acceptable escrow agreement. The District will be entitled to make progress payments from such escrow account, and the City will have the right to access such funds in the escrow account if the District fails to complete the Public Improvements in accordance with the terms and conditions of the pertinent Project SIA, Site SIA, SIPIA or intergovernmental agreement. The specific terms regarding such arrangements will be as set forth in the applicable Project SIA, Site SIA, SIPIA or intergovernmental agreement. The City will cooperate with Owners and the Districts in applying for state and federal funding to the extent traffic, water, sanitary sewer, stormwater management, water quality or other Public Improvements may be eligible for such funding.

4.2 No Obligation to Develop Sites. This Agreement will not be construed to create an implied obligation upon any Owner or any Developer to develop Sites within the Project. No Owners or Developers will have any liability to the City or to any other party arising out of this Agreement based on the timing or non-occurrence of development of all or any part of the Property or for failure to develop all or any of the Sites. This Section 4.2 will not be construed as relieving any Owner or any Developer of any express obligation imposed by any component of the Development Plan, this Agreement, or the City Code. The Parties intend that each component of the Development Plan and this Agreement will be fully enforceable in accordance with the terms of each.

4.3 Owners' and Developers' Improvement Obligations. Notwithstanding the foregoing Section 4.2, if an Owner or a Developer commences development within the Property,

as evidenced by the physical installation of Public Improvements within the ground, such Owner or Developer will be required to complete construction of those Public Improvements required to support such development in accordance with the terms and conditions of the Project SIA, Site SIA or SIPIA, as applicable, and, to the extent not inconsistent with the Development Plan, the City Code (as in effect on the Submittal Date of the relevant Development Application). Development and construction of the Site Improvements also will comply with the Development Plan and, to the extent not inconsistent with the Development Plan, the City Code (as in effect on the Submittal Date of the relevant Development Application) and the City's building code, electrical code, and plumbing code. The applicable Project SIA, Site SIA or SIPIA will set forth all Public Improvements required to support development of the pertinent phase of the Project pursuant to the Development Plan. The applicable Project SIA, Site SIA or SIPIA will further provide that completion of the Public Improvements will be assured by a restriction on conveyance and/or issuance of certificates of occupancy for the Site Improvements to be constructed on specific Sites, and that such restriction will be removed upon the City's probationary acceptance of the Public Improvements subject to satisfaction of any approvals from the City or other agencies necessary for compliance with building codes and similar health and safety requirements. At the request of the applicable Owner or the applicable Developer, the City will issue temporary or permanent certificates of occupancy for the Site Improvements prior to the City's probationary acceptance of all of the Public Improvements provided that: (1) the applicable Owner or applicable Developer provides, at its election, either cash collateral, a surety bond, or a letter of credit issued by a U.S. bank (provided presentment for payment can be made in Colorado) in a form approved by the City in an amount equal to 115% of the estimated cost (as set forth in the applicable Project SIA, Site SIA or SIPIA) of any Public Improvements with respect to which the City has not granted probationary acceptance; or a District assumes such obligation and provides assurance of completion as provided in Section 4.1 above; and (2) the City determines that the Site Improvements constructed by the applicable Owner or the applicable Developer are in compliance with all applicable building codes, engineering standards, and similar health and safety requirements.

4.4 Streets. Owners will Dedicate right-of-way to the City and construct all roadways and related improvements, including without limitation traffic signals, within and without the Property in accordance with the Master Traffic Study, such that such roadway improvements and the timing of constructing such improvements is commensurate with the impact of developing the Property. Where Owners construct roadway improvements, including without limitation traffic signals, that benefit other properties, the City will use its reasonable good faith efforts to secure reimbursement or contribution on an equitable pro rata basis from such other benefitted properties. In accordance with the design and construction standards set forth in the PD Plan, the applicable Owner(s), Developer(s) and/or District(s) will design, finance and construct the streets within the Property pursuant to City approved construction drawings. The right-of-way requirements and street sections for the streets are set forth in the PD Plan, as such requirements will be incorporated into construction plans to be approved by the City in conjunction with review and approval of future Development Applications for the Project. To the extent not established by the PD Plan and/or this Agreement, the street classifications and phasing of street segments will be determined based on the Master Traffic Study (as updated from time to time in connection with the processing of future Development Applications). Except as this Agreement expressly states otherwise, the relationship between commencement and completion of a particular street (or segment or phase thereof) and issuance of building permits and certificates of

occupancy within a Site accessed by that street (or segment or phase thereof), and the timing of the applicable Owner's and/or the applicable Developer's obligations to commence and complete a particular street (or segment or phase thereof) will be as set forth in the Project SIA and/or the applicable Site SIA or SIPIA. Upon substantial completion of each independent street segment or phase required under the Project SIA and/or a Site SIA or SIPIA, and except as provided below, public streets will be accepted by the City for maintenance, provided such streets have been constructed in accordance with the Development Standards and the applicable Project SIA and/or Site SIA or SIPIA. Provided, however, the City will not be obligated to accept public streets for maintenance to the extent such public streets are not constructed in usable phases, but in isolated segments not reasonably capable of being maintained by the City. With the agreement of the applicable District or the City, Owners or the applicable Developer may designate certain public streets within the Project to be owned and maintained by a District. Owners or the applicable Developer may also designate private streets within the Project to be maintained by the applicable Association. Any such streets to be owned or maintained by a District or an Association will be designated by Owners or the applicable Developer at the time of final plat.

A. Dedications. The applicable Owner or the applicable Developer will Dedicate all rights-of-way for public streets within and adjacent to the Property, as more particularly described in this Agreement. Dedication of right-of-way for public streets will occur at the time of recordation in the real property records of Douglas County, Colorado of each final subdivision plat approved by the City for Sites within the Property, as more particularly described in this Agreement. However, the applicable Owner(s) or the applicable Developer(s) will Dedicate such rights-of-way by execution and delivery of a special warranty deed at an earlier time when determined by the City to be required for commencement of construction of such public streets or for extension of utilities. An earlier Dedication will not relieve the applicable Owner or the applicable Developer of the obligation to improve streets as provided herein.

4.5 Water and Sanitary Sewer. Pursuant to that certain Real Property Inclusion Agreement dated February 27, 2003 and that certain Memorandum of Understanding, dated February 27, 2003, PWSD will serve as the provider of water and sanitary sewer facilities for the Project. The City will have no obligation to provide water and sanitary services or infrastructure to the Property or the Project. The City hereby recognizes the above-referenced Real Property Inclusion Agreement and other related documentation submitted to the City in connection with its approval of the PD Plan as demonstrating that adequate water supply and sanitary sewer treatment capacity exist to support development of the Project as contemplated in the PD Plan.

4.6 Homestead Site. Owners will consult with the Douglas County Historic Preservation Board to determine an appropriate plan for the preservation of the homestead site.

4.7 Storm Drainage and Water Quality. Storm drainage and water quality improvements required in connection with development of the Project will comply with the Phase I Drainage Report and Cherry Creek Basin Water Quality Authority's best management practices as in effect on the Submittal Date (including the Cherry Creek Reservoir Watershed Stormwater Quality Requirements). The City hereby recognizes the above-referenced Phase I Drainage Report and other related documentation submitted to the City in connection with its

approval of the PD Plan as demonstrating the improvements required to satisfy storm drainage and water quality issues for the Property as envisioned by the PD Plan.

4.8 Technical Standards. All technical engineering and architectural standards adopted by the City, as amended from time to time, including without limitation those related to roadway construction and storm drainage will apply to the Project, to the extent such standards do not conflict with the Development Plan. Provided, however, if the City amends any such standards or adopts any new such standards in a manner not generally accepted and/or in wide use by other similar governmental entities, such amended provisions will not apply to the Project. Instead, those technical standards in place prior to such amendment or adoption will continue to apply to the Project. Notwithstanding the foregoing, any such technical standards adopted by the City which restrict or require prior City approval for urban roadside ditches, driveway trench drains, Denver Type 13 inlets, Vane Grate inlets, Denver No. 16 inlets, exposed riprap or rock in emergency overflow swales, unlined flow channels, overlot grading for areas less than 140 acres, or stand alone GESC permits when the activities subject to the permit are not associated with an active site improvement plan or subdivision application will not apply to the Property.

4.9 Public Land Dedication and Fees. The applicable Owner and/or the applicable Developer(s) will Dedicate land to the City or other public entities designated by the City as more specifically set forth below, which Dedications will fully satisfy and expressly preempt and supersede any conflicting City Code provisions.

A. Open Space, Parks and Trails. In full satisfaction of all City requirements with respect to open space, parks and trails, 112.5 acres designated on the PD Plan as Public Land Dedication will be Dedicated to the City upon the earlier to occur of (i) recordation of the final subdivision plat(s) containing the area designated as City open space, City parks and/or trails; or (ii) a request from the City for such open space, parks and trails, provided the City (a) has a designated use for the parks and/or trail for which adequate funds have been appropriated and an approved construction schedule and (b) the open space, parks/trail is located within an area of the Property provided with any required utility and infrastructure service at the time of the City request. The precise boundaries of local parks are subject to adjustment of the boundaries thereof as provided in the Development Standards. Trail locations are conceptual and final alignment will be established at the time of final plat. The local parks and trails will be owned and maintained by the City. The above-referenced Dedications satisfy the City's requirements for land suitable for Dedication, and Owners will receive full credit against the Project's public land Dedication requirements. Except as provided in Section 1.6B, no additional public land Dedications or cash in lieu will be required as a condition of any Development Application approval.

B. Other Open Space, Parks and Trails. Other acreage designated on the PD Plan as open space, parks and trails will be Dedicated to a District, Association, or other public or quasi-public entity designated by the Owners at the time of recording of the final plat for the filing in which the local parks and trails are located. Open space and local parks are subject to adjustment of the boundaries thereof as provided in the Development Standards. Trail locations are conceptual and final alignment will be

established at the time of final plat. The open space, local parks and trails will be owned and maintained by the District, Association, or other entity to which the Dedication is made.

C. School Sites and Fees. Owners or the applicable Developer(s) will Dedicate to the City up to 49 acres of land suitable for the development of schools. All school sites within the Project are located in areas where school uses are permitted pursuant to the PD Plan. The PD Plan designates 2 sites for elementary schools, each 12 acres in size (the “Elementary School Sites”). The Elementary School Sites will be dedicated to the City upon the earlier to occur of (i) recordation of the final subdivision plats(s) containing the Elementary School Sites; or (ii) a request from the City for such, Elementary School Site(s), provided student population generated from development within the Project (using the City’s generally applicable methodology for calculating student generation) demands such a school, or the City (a) has a designated school use for the such site(s) for which funds have been fully appropriated for all improvements related to the designated use and an approved construction schedule. In either event, the Elementary School Site must be located within an area of the Property provided with all required utility and infrastructure service. With respect to the remaining 25-acre school site, Owners or applicable Developer(s) may, at the Owners’ or applicable Developer(s)’ discretion either Dedicate such site to the City upon recordation of the final subdivision plat containing such site, or pay cash in lieu of land dedication. If the Owners or applicable Developer(s) decides to pay cash in lieu of land dedication, the amount of cash will be determined based on the fair market value of the land at the time of payment. The precise boundaries of the school sites are subject to adjustment of the boundaries thereof as provided in the Development Standards. Neither Owners, Developers nor the Districts will have any obligation to grade or otherwise improve the sites, or to design, construct or contribute to the cost of such elementary schools or the extension of access or utilities to or within such sites. Dedication of a school site to the City will be subject to the site being used exclusively for school or public park uses and will prevent the City from subsequently reselling such site for any other use. If construction of a school on a Dedicated school site does not occur in reasonable accordance with the construction schedule approved in connection with the City request for Dedication, the City may use such site for construction of a public park only. The above-referenced Dedications will fully satisfy the City’s requirements for land suitable for Dedication, and Owners will receive full credit against the Project’s school land Dedication requirements. School land Dedicated to the City for both public and private schools, including without limitation institutions of higher education will fulfill Owners school land Dedication requirements herein. No additional school land Dedications or cash in lieu will be required by the Owners, Developer(s) or the District(s).

4.10 Existing Electrical Utilities. Neither Owners, Developers nor the Districts will be required, whether as a condition of the City’s approval of a Development Application or otherwise, to underground any electric transmission lines, distribution lines or related facilities existing on the Property as of the Effective Date. Undergrounding of electric utility line extensions required in connection with development of the Project will be governed by the City Code.

4.11 Districts and Associations.

A. Districts. Owners previously have formed the Canyons Metropolitan District Nos. 1, 2, 3 and 4, pursuant to article 1, title 32, C.R.S. As contemplated in Sections 2.2E and 2.2G, concurrently with approving annexation of the Property the City has adopted a resolution accepting designation as the approving authority for Canyons Metropolitan District Nos. 1, 2, 3 and 4 and has taken action to approve service plans for the Canyons Metropolitan District Nos. 5 through 11. The purposes of the Canyons Metropolitan District Nos. 1 through 11 (individually, a “**District**,” and collectively, the “**Districts**”) are, *inter alia*, to facilitate financing and development of Public Improvements and other facilities and services for the Project for which Owners or other Developers are or may become obligated under the terms in this Agreement, and such other purposes as are included in the approved service plan(s) for the District(s). The City will from time to time consider and, following public hearing if required, take final action on such service plan amendments as Owners may deem necessary or desirable to implement this Section 4.11A and Article 5. Some or all of the obligations of Owners and/or Developers under this Agreement may be assigned to and assumed by the District(s), and the formation documents of the District(s) require the District(s) to honor any obligations that are assigned to and assumed by the District(s) pursuant to this Agreement. Owners and other Developers further reserve the right to assign to the District(s) all or any part of their obligations and rights under this Agreement with respect to the funding, construction, reimbursement and/or offset of fees, and other matters within the scope of the District(s)’ approved service plan in accordance with the terms and conditions of this Agreement, the Project SIA, Site SIA or SIPIA and applicable law. In such event, the District(s) will provide facilities and services that the City and/or Owners and/or other Developers might otherwise have to provide. The District(s)’ written assumption of any such obligation will, upon delivery to the City, effect a release of the applicable Owner(s) or other Developer(s), as applicable, from performance of the assumed obligation without the requirement of further action; provided, however, that the City will not unreasonably withhold or delay execution of a written release upon receiving the applicable Owner(s)’ or Developer(s)’ written request therefor. Accordingly, references to Owner(s) or Developer(s) in the context of Public Improvement obligations addressed in this Agreement will be construed to include by reference the applicable District(s) to the extent the District(s) have assumed the obligations of Owners or other Developers pursuant to the terms of this Agreement. The City will reasonably cooperate with Owners’ efforts for the formation and operation of the District(s), and with the Service District’s implementation of plans for financing, developing and maintaining the public infrastructure improvements required to support development of the Project. The service plans will contain a provision whereby the City may determine that the purposes for which the district(s) were created have been accomplished, and upon such determination, the district(s) will file appropriate petitions for dissolution.

B. Associations. Without any obligation under this Agreement to do so, Owners reserve the right to create one or more owners association(s) having as its/their members property owners within the Project (individually, an “**Association**” and collectively, the “**Associations**”). The purposes of the Association(s) will be, *inter alia*,

to facilitate maintenance of the public and private infrastructure improvements and other public and private facilities within the Project, including those for which Owner(s) or Developer(s) are or may become obligated under the terms of this Agreement, the Project SIA, Site SIA or any SIPIA. Owners and other Developers, as applicable, further reserve the right to assign to the Association(s) all or any part of Owner(s)' or Developer(s)' obligations and rights under this Agreement with respect to the maintenance, reimbursement and/or offset of fees, and other matters related to the infrastructure required to support development of the Project in accordance with the terms and conditions of this Agreement and applicable law. In such event, the Association(s) will maintain facilities and services that the City and/or Owners and/or Developer(s) might otherwise have to provide. References to Owner(s) or Developer(s) in the context of Public Improvement obligations addressed in this Agreement will be construed to include by reference the applicable Association(s) to the extent such entities have assumed the obligations of Owners or other Developers pursuant to the terms of this Agreement.

4.12 Mass Transit. Owners will coordinate with the City and Regional Transportation District ("RTD") with respect to conveying to RTD up to 4 acres of the Property for a transit station, should conditions warrant. The location of the transit station Site will be determined at the time of the approval of the final plat containing such Site. Owners will coordinate in good faith with the RTD with respect to the conveyance of the necessary amount of right-of-way for light rail transit service, which may serve the Property and the City, should conditions warrant. The final alignment and transit station locations are unknown at this time; however, the transit corridor and station are noted conceptually on the PD Plan, and shall not be reserved for such uses until such time as specific rail plans are finalized or immediate land development areas are brought to market. Conveyance of such Site to RTD will occur at the time of recording the final plat containing such Site or as otherwise agreed to among the City, Owners, and the RTD, subject to RTD committing to extend light rail to the Property within a reasonable timetable. The City will include Owners in all design reviews related to the mass transit facilities to ensure that the quality of the proposed project is consistent with the quality envisioned for the Project as reflected in City and project Development Standards.

ARTICLE 5

REVENUE SHARING AND FEE WAIVERS

5.1 Purpose. The purposes of this Article 5 are to (i) advance the City's interest in stimulating economic development within its municipal boundaries to enhance generation of sales, property and use taxes, reduce sales tax leakage, promote employment opportunities, promote diversity of housing, retail and commercial development and otherwise provide benefits to the City and its citizens; (ii) establish the cooperative funding arrangement described herein with respect to facilitating financing of the design, construction and or acquisition of the Public Improvements required to enable development of the Project; (iii) implement the cooperative funding arrangement through use of the Credit PIF and Sales/Use Tax Credit mechanism; and (iv) equitably address property taxes, fees and assessments the City may in the future impose for the purpose of undertaking the provision of certain municipal services not presently provided by the City.

5.2 Sales Tax and Use Tax Sharing. In consideration of Owners' agreement to impose the Credit PIF on Taxable Transactions (including Construction Activities) pursuant to the PIF Covenant in order to fund Eligible Costs as set forth in this Agreement, the City will grant a Sales/Use Tax Credit to retailers and building permit applicants who are subject to and actually pay the Credit PIF to the PIF Collecting Agent/Trustee during the Revenue Sharing Period in accordance with the terms and conditions of this Agreement and the PIF Covenant. The Credit PIF Revenues will be utilized for the benefit Owners and the Project to finance Eligible Costs as provided in this Agreement and in the PIF Covenant. The PIF Covenant will provide, *inter alia*, that Owners may assign to an Infrastructure Provider, to be designated by Owners from time to time in Owners' sole discretion, the right to receive and utilize the Credit PIF Revenues pursuant to the PIF Covenant and this Agreement. As of the Effective Date, Owners intend that the Service District will be the initial Infrastructure Provider. Should another entity replace the Service District as Infrastructure Provider, Owners will provide written notice thereof to the City and such notice will have the effect of removing the Service District as a Party to this Agreement without further action by the Service District or the remaining Parties. If Owners so request, this Agreement will be amended pursuant to Section 8.6 to add the New Infrastructure Provider as a Party.

A. Non-Exclusive Categories of Eligible Improvements. Categories of Eligible Improvements which are approved under the terms and conditions of this Section 5.2 to be funded from Credit PIF Revenues include, but are not limited to all hard and soft costs required to design and construct (including the maintenance, repair, renovation, and/or expansions, addition or replacement) of on-site and off-site:

- (i) major and minor arterial streets, together with associated landscaping and trails;
- (ii) collector and local streets, together with associated landscaping and trails;
- (iii) traffic signals, signage and monumentation;
- (iv) potable and non-potable water distribution and transmission lines;
- (v) sanitary sewer collection and transmission lines;
- (vi) storm drainage and water quality detention, retention, conveyance and related facilities;
- (vii) capital facilities, parks, open space, trails and associated landscaping;
- (viii) recreational facilities;
- (ix) parking facilities and structures;
- (x) transit facilities;

(xi) acquisition of, public improvements within, and operation and maintenance of the “Farm” (as identified on the PD Plan); and

(xii) grading associated with any other Eligible Improvements.

The above list is expressly intended to be illustrative only and will not be interpreted to represent any particular Public Improvement that will be constructed or to represent an exclusive or exhaustive listing of all particular Public Improvements that could be Eligible Improvements.

B. Implementation of Sales/Use Tax Credit; Credit PIF.

(i) Approval of Sales/Use Tax Credit Ordinance. In order to implement the Sales/Use Tax Credit, the City intends to approve an ordinance amending its City Code provisions regarding municipal use tax (on building materials only) and sales tax to provide for and implement the Sales/Use Tax Credit substantially as follows: During the Revenue Sharing Period, each person or entity otherwise liable to the City for sales taxes or use taxes (on building materials only) with respect to Taxable Transactions (including Construction Activities) occurring within the Project will receive a credit (i.e., the Sales/Use Tax Credit) against such City use tax obligation (on building materials only) and/or City sales tax obligation in an amount equal to the amount of the Credit PIF Revenues imposed and collected on such Taxable Transaction and subsequently received by the PIF Collecting Agent/Trustee. Such Sales/Use Tax Credit will be automatic and will take effect immediately upon the applicable retailer’s (as reflected on the retailer’s periodic sales tax report) or building permit applicant’s remittance to and receipt by the PIF Collecting Agent/Trustee of the Credit PIF Revenues; provided, however, that the transactions and payments supporting the Sales/Use Tax Credit for any given period will nevertheless be subject to audit by the City (or its designee) to the same extent, for the same limitations periods and in the same manner as the items which are required to be reported on the retailer’s or building permit applicant’s return relating to the period in which the transaction occurs.

(ii) Rate of Credit PIF. Pursuant to its authority under the PIF Covenant, Owners will set the rate of the Credit PIF at not less than 1.375% as applied to Taxable Transactions (including Construction Activities) during the Revenue Sharing Period.

(iii) Duration of Revenue Sharing Period. The period during which the City will maintain the Sales/Use Tax Credit in effect (“**Revenue Sharing Period**”) will commence on the Effective Date and will terminate on: (i) with respect to application of the Sales/Use Tax Credit to Taxable Transactions subject to the City’s sales tax, the 35th anniversary of the Effective Date; and (ii) with respect to application of the Sales/Use Tax Credit to Taxable Transactions subject to the City’s use tax, the 25th anniversary of the Effective Date. Provided, however, if prior to the time periods set forth above, all costs related to Eligible

Improvements have been paid, including without limitation any financing costs and loan obligations related to such Eligible Expenses, the revenue period will expire. Upon expiration of the Revenue Sharing Period, the Sales/Use Tax Credit will terminate and the Credit PIF will terminate except as otherwise set forth in Section 5.2H. Any Credit PIF Revenues then remaining on deposit with the PIF Collecting Agent/Trustee, or subsequently remitted by the PIF Collecting Agent/Trustee with respect to Taxable Transactions occurring prior to expiration of the Revenue Sharing Period, will be disposed of pursuant to Section 5.2B(iv) below. Notwithstanding expiration of the Revenue Sharing Period, all Credit PIF Revenues generated from Taxable Transactions occurring before expiration of the Revenue Sharing Period will continue to be collected by the PIF Collecting Agent/Trustee as otherwise provided in this Section 5.2 and the PIF Collection Services and Trustee Agreement.

(iv) Disposition of Funds Upon Expiration of the Revenue Sharing Period. If there are Credit PIF Revenues remaining on deposit with the PIF Collecting Agent/Trustee upon expiration of the Revenue Sharing Period, the PIF Collecting Agent/Trustee will disburse the funds in the following priority: (a) to the extent the Infrastructure Provider has incurred or will be incurring Eligible Costs for which the PIF Collecting Agent/Trustee has not disbursed Credit PIF Revenues to reimburse the Infrastructure Provider, the PIF Collecting Agent/Trustee will hold the funds until the Infrastructure Provider has been fully reimbursed pursuant to the terms and conditions of this Section 5.2 or there are no remaining Credit PIF Revenues on deposit with the PIF Collecting Agent/Trustee; and then (b) after the Infrastructure Provider has been fully reimbursed for the Eligible Costs as provided in this Agreement, and to the extent there are Credit PIF Revenues remaining on deposit with the PIF Collecting Agent/Trustee, the PIF Collecting Agent/Trustee will disburse such funds to the City.

C. Responsibilities of PIF Collecting Agent/Trustee. Pursuant to a PIF Collection Services and Trustee Agreement, it is anticipated that the Infrastructure Provider will engage a PIF Collecting Agent/Trustee to, among other things, collect, disburse and account for the Credit PIF Revenues as generally described below. Upon the issuance of any District bonds the repayment of which is secured in whole or in part by a pledge of Credit PIF Revenues, the bond trustee may be designated as or otherwise coordinate with the PIF Collecting Agent/Trustee in accordance with the terms and conditions of the bond indenture, and the Parties will coordinate to modify, amend or supplement the PIF Collection Services and Trustee Agreement and this Agreement to the extent necessary or desirable to conform to the terms and conditions of the bond indenture.

(i) Collection of Credit PIF Revenues. The PIF Covenant will designate the Infrastructure Provider as the initial PIF Collecting Agent/Trustee. As more particularly set forth in a PIF Collection Services and Trustee Agreement to be executed after the Effective Date, the Infrastructure Provider may designate a PIF Collecting Agent/Trustee to receive the Credit PIF Revenues on behalf of the Infrastructure Provider, to collect the Credit PIF Revenues from retailers and

persons engaged in Construction Activities within the Project, and to disburse the Credit PIF Revenues as provided in this Agreement and the PIF Collection Services and Trustee Agreement. The City will coordinate with the Infrastructure Provider, Owners and the State of Colorado Department of Revenue with respect to utilization of and any necessary modifications to the sales tax reporting forms for reporting with respect to the Taxable Transactions by all retailers within the Property during the Revenue Sharing Period. The City will coordinate and cooperate with the Infrastructure Provider and Owners to monitor and verify, to the extent possible, that if a retailer has taken a Sales/Use Tax Credit on a Taxable Transaction subject to the City's sales tax, the retailer has remitted the corresponding Credit PIF Revenues to the PIF Collecting Agent/Trustee. The City also will coordinate with the Infrastructure Provider and Owners with respect to verifying that persons engaged in Construction Activities within the Project have paid the Credit PIF to the PIF Collecting Agent/Trustee in the appropriate amount prior to issuance of a building permit by the City. The Infrastructure Provider will reimburse the City for its reasonable costs incurred in coordinating with the Infrastructure Provider, Owners and the State of Colorado Department of Revenue with respect to implementation, verification and monitoring of the Credit PIF, and the PIF Collecting Agent/Trustee's collection and disbursement of the Credit PIF Revenues.

(ii) Trustee Functions With Respect to Credit PIF Revenues. The PIF Collection Services and Trustee Agreement will include, without limitation, the following minimum provisions relating to the Credit PIF Revenues:

(a) The PIF Collecting Agent/Trustee will receive all Credit PIF Revenues remitted by retailers and persons engaged in Construction Activities within the Project.

(b) The PIF Collecting Agent/Trustee will hold all Credit PIF Revenues in a segregated account.

(c) The PIF Collecting Agent/Trustee will invest the Credit PIF Revenues as directed by the Infrastructure Provider and in accordance with applicable law.

(d) The PIF Collecting Agent/Trustee will keep accurate books and records of all deposits of Credit PIF Revenues, including investment earnings thereon, and all disbursements of Credit PIF Revenues as provided in Subsection (iii) below.

(e) Within thirty (30) days after the last day of the immediately preceding calendar quarter, the PIF Collecting Agent/Trustee will provide unaudited quarterly reports of all Credit PIF Revenues received and/or disbursed in the immediately preceding calendar quarter, at the Infrastructure Provider's cost, to the City and the Infrastructure Provider.

(f) Upon receipt of the requisite certification of Eligible Costs as provided in Section 5.2E, the PIF Collecting Agent/Trustee will remit to the Infrastructure Provider the appropriate reimbursement amount from available Credit PIF Revenues on deposit with the PIF Collecting Agent/Trustee.

(g) Upon expiration of the Revenue Sharing Period, the PIF Collecting Agent/Trustee will disburse any remaining Credit PIF Revenues as generally provided in Section 5.2B(iv) above.

(iii) Disbursement of Credit PIF Revenues. The PIF Collecting Agent/Trustee will be required to maintain an accounting of the amount of the Eligible Costs, together with Interest thereon, that have been expended on the Public Improvements (based solely on the certifications submitted to the PIF Collecting Agent/Trustee by the Infrastructure Provider pursuant to Section 5.2E), and the amount of Credit PIF Revenues that the PIF Collecting Agent/Trustee has disbursed to reimburse the Infrastructure Provider for Eligible Costs.

D. Use of Credit PIF Revenues. The Infrastructure Provider will use the Credit PIF Revenues only for Eligible Costs.

E. Certification of Eligible Costs. All disbursements of Credit PIF Revenues by the PIF Collecting Agent/Trustee will be made to the Infrastructure Provider in reimbursement of Eligible Costs, subject to the terms of the PIF Collection Services and Trustee Agreement, this Agreement and the bond indenture(s) for any District bond issuance secured in whole or in part by a pledge of Credit PIF Revenues, including, without limitation, the terms and conditions of this Section 5.2E. As the Infrastructure Provider incurs Eligible Costs, and as a condition precedent to the PIF Collecting Agent/Trustee's disbursement of Credit PIF Revenues in reimbursement therefor, the Infrastructure Provider will deliver to the PIF Collecting Agent/Trustee, with a copy thereof to the City, a certificate certifying the actual amount of Eligible Costs for which disbursement is being requested, together with a certification of the total amount of Eligible Costs for which the Infrastructure Provider has previously received disbursement. If the Eligible Costs for which a requested disbursement is being submitted consist only of Accrued Interest and/or Financing Costs, the certificate will be signed by an officer of the Infrastructure Provider representing that such Eligible Costs have actually been incurred and are qualifying costs for reimbursement from Credit PIF Revenues under this Section 5.2E. If the Eligible Costs for which a requested disbursement is being submitted include principal amounts of the actual costs of engineering, construction engineering, construction survey and/or construction (labor and materials) of Eligible Improvements, a licensed and registered Colorado civil engineer will also countersign the certificate representing that such Eligible Costs have actually been incurred. The certificate will be in substantially the form attached hereto as Appendix C or such other form as may be mutually agreed upon by the Infrastructure Provider and the City.

F. Limitation to Revenue Sharing Period. To the extent the aggregate total of the Eligible Costs incurred by the Infrastructure Provider has not been fully reimbursed from Credit PIF Revenues prior to expiration of the Revenue Sharing Period, the City will have no obligation to continue the Sales/Use Tax Credit or to reimburse the Infrastructure Provider for such excess costs. Unless extended pursuant to Section 5.2G, the Sales/Use Tax Credit will terminate upon the expiration of the Revenue Sharing Period.

G. Annual Appropriation; Legislative Discretion. Nothing in this Section 5.2 is intended to nor will be construed to create any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of the Constitution or laws of the State of Colorado. To the extent that any of the City's obligations under this Section 5.2 are declared by a court of competent jurisdiction to constitute an invalid multiple fiscal year financial obligation pursuant to Article X, Section 20 of the Colorado Constitution such that the performance of the City's obligations is thereby prevented or made subject to annual appropriation and it is not possible to reform this Agreement in such a manner as to bring the City's performance of its obligation outside the scope of a multiple fiscal year obligation pursuant to Article X, Section 20 of the Colorado Constitution or make the City's performance of its obligations possible or not subject to annual appropriation, the City's performance will be conditioned upon annual appropriation by City Council, in its sole discretion. To the extent such obligations are determined to be subject to annual appropriation, the official or employee charged with the responsibility of formulating the budget proposals is hereby directed to include in the budget proposals for each year sufficient funds to meet the City's obligations under this Article 5. Notwithstanding any provision of this Agreement to the contrary, the Revenue Sharing Period will be extended one day for each day during which the Sales/Use Tax Credit is not in effect.

H. Post-Revenue Sharing Period. If the City determines after expiration of the Revenue Sharing Period that termination of the Sales/Use Tax Credit may be precluded by or require a refund under Article X, Section 20 of the Colorado Constitution, the City may submit a written request that Owners continue to impose and that the Infrastructure Provider continue to collect the Credit PIF Revenues and (i) remit the funds therefrom to the City; or (ii) otherwise expend such funds for the benefit of the City and direct or indirect benefit of the Property as directed in writing by the City to the Infrastructure Provider and Owners, in which case the Sales/Use Tax Credit will continue. The City's written request must be delivered at least ninety (90) days prior to expiration of the Revenue Sharing Period. Upon timely receipt of the request, Owners will continue to impose and the Service District will continue to collect the Credit PIF Revenues, pursuant to the PIF Covenant and this Agreement, for so long as and to the extent the City continues the Sales/Use Tax Credit in effect, and the Infrastructure Provider will either remit to the City, pursuant to clause (i) above, all such funds actually collected or expend such funds in accordance with this Section H, less its actual direct and indirect costs and expenses incurred, on a quarterly basis in arrears (i.e., funds for the prior quarter will be remitted at the end of the subsequent quarter), or expend such funds pursuant to clause (ii) above.

I. Enforcement. If the PIF Collecting Agent/Trustee is unable to collect all or any portion of the Credit PIF due to delinquency, deficiency, or failure to file, such that the Sales/Use Tax Credit does not attach to a Taxable Transaction, the PIF Collecting Agent/Trustee will notify the Infrastructure Provider of such fact. Upon receipt of any such notice, the Infrastructure Provider may, in addition to exercising all of its remedies under the PIF Covenant or otherwise, notify the City in writing and the City, to the extent that it collects and enforces sales or use taxes, will institute the procedures authorized under the City's sales tax and use tax regulations to enforce and collect the corresponding sales tax or use tax amount, together with any applicable interest, penalties and/or costs. If applicable, the City will then remit any such collected tax revenues to the PIF Collecting Agent/Trustee, subject to annual appropriation by the City and subject to the following conditions: (i) the City will be entitled to retain an amount equal to its costs incurred in enforcing such collection of taxes under the City Code as well as one hundred percent (100%) of any penalty and/or interest actually collected; (ii) the obligation is subject to any prior lien on any City taxes securing the City's sales tax or use tax (on building materials only) revenue bonds outstanding as of the Effective Date; (iii) the City does not guarantee or ensure that it will be able to collect any delinquent or deficient Credit PIF amounts; and (iv) under no circumstances will the City be subject to any legal liability to the Infrastructure Provider, Owners or any third party on account of the City's failure to collect some or all of the delinquent or deficient Credit PIF obligations on behalf of the Infrastructure Provider. If the person or entity which failed to timely pay the Credit PIF subsequently remits the delinquent Credit PIF, such payment will result in the application of the Sales/Use Tax Credit against such person's or entity's tax obligation, which Sales/Use Tax Credit will fully satisfy any corresponding liability to the City for unpaid sales or use tax (on building materials only). In such circumstances, the City will nevertheless be entitled to recover from Owners any costs incurred in the enforcement and recovery of such Credit PIF Revenues.

J. Remedies for City's Failure to Maintain Sales/Use Tax Credit. If the City fails during the Revenue Sharing Period to maintain the Sales/Use Tax Credit in effect as provided in this Agreement for the duration of the Revenue Sharing Period, in addition to any other remedies available to Owners or Developers under this Agreement, Owners and/or the Developers of any Site within the Project may elect the contractual remedy of disconnection of their respective properties from the municipal boundaries of the City. The procedure for contractual disconnection hereunder will generally follow the procedure described in section 31-12-501, C.R.S., for disconnection by ordinance in that such Owner or Developer may elect to submit a written demand for disconnection; provided, however, that the property for which disconnection is being sought will not be required to be located immediately adjacent to the then-current municipal boundary of the City. Upon receipt of any such disconnection demand, the City Council will adopt an ordinance effecting the disconnection, it being a material element of this Agreement that it is conclusively determined as of the Effective Date that the best interests of the City will not be prejudiced by the disconnection of any such property in the event the City has not maintained the Sales/Use Tax Credit in effect as provided in this Agreement, and further provided that the City expressly waives any right to assert any contrary position in any administrative, legislative or judicial proceeding with respect to any demand for disconnection submitted pursuant to this Section J. The ordinance approving any

disconnection pursuant to this Section J will provide that the City will continue to provide the same municipal utility services to the disconnected property as were being provided prior to disconnection, if any, and that the terms and charges for such services will be on the same terms and conditions as apply to other properties within the City and will not be subject to additional terms, conditions or charges on the basis that such services are being provided on an extra-territorial basis.

K. Use of Urban Renewal Authority. If the City establishes an urban renewal authority and designates all or any portion of the Property as an urban renewal area, Owners and the City may cooperate to implement the revenue sharing provisions of this Article 5 in whole or in part, in accordance with the Urban Renewal Law, sections 31-25-101 through 115, C.R.S., and in such event will amend this Agreement, if necessary, accordingly pursuant to Section 8.6 to the extent necessary or desirable to reflect such arrangements.

5.3 Waiver of Impact Fees. Pursuant to the terms and conditions of this Section 5.3, and notwithstanding that the City Code may otherwise generally impose such fees on development of other properties within the City, the City hereby grants to Owners and each Developer for the duration of the Vesting Term a waiver of 100% of any and all City-adopted impact fees (including any new fees that might be imposed after the Effective Date) imposed on development within the Property; provided that City-wide, uniform and non-discriminatory fees for services or facilities will not be subject to this waiver, but instead will be payable on the same terms and conditions as others pay in the City.

5.4 Exactions and Fees. The PD Plan and this Agreement set forth all of the Dedications, fees and other exactions that are required in connection with the development of the Project. Except as expressly stated in the PD Plan or this Agreement, no Dedications, impact fees or exactions of any kind will be required or imposed with respect to development of the Project, whether such requirements are currently in effect or are enacted after the Effective Date; provided, however, that fees such as routine permit, application and development review fees or any other fees of general application throughout the City will apply to the Development Applications for the Project. The applicable Owner or the applicable Developer will pay all planning review and processing fees, engineering review and processing fees, engineering permit fees and any other fees associated with the City's review of plans or similar materials in effect at the time of the applicable Development Application submittal. The applicable Owner or the applicable Developer will pay any storm drainage basin fees or similar fees owed to the Cherry Creek Basin Water Quality Authority at the time of building permit issuance.

5.5 City Property Taxes for Future Municipal Services. As more specifically described in Section 1.5, as of the Effective Date, various special districts and similar service providers other than the City provide many of the municipal services within the City's boundaries, and such service providers impose their own mill levies and otherwise charge for and collect fees and taxes in connection with providing such services. Upon annexation of the Property, fire, police, water and sanitation and similar municipal services will be provided by service providers other than the City. With respect to services such as water and sanitation, the Parties contemplate the City will not have any obligation to provide such services and will not undertake to provide such services to the Project even though it may in the future undertake to

provide such services to areas of the City other than the Property. With respect to other services such as fire and police services, the City contemplates that it may undertake in the future to provide such services to all areas of the City, including the Property. Accordingly, to the extent the City undertakes to provide such municipal services, and prior to implementing any such services in the future, the City will advise Owners of its plans and the Parties will in good faith develop a methodology for assuring the Property and the Project are not inequitably burdened by property taxes and/or other taxes or fees imposed by the City for such services to the extent the Project is not utilizing or benefitting from such services, programs or facilities. By way of example, if the City undertakes to provide water and sanitation services to areas of the City other than the Property and imposes a mill levy uniformly throughout the City in connection therewith, and such mill levy is legally required to be imposed on the Property, a methodology will be established whereby the City will either provide services (other than water and sanitation) to property owners within the Property of equivalent value to the property taxes imposed, or will provide a tax rebate or other form of offset or adjustment such that there is no net increase in tax/fee burden to landowners within the Property. Similarly, if the City undertakes to provide services to the Property with respect to which property owners within the Project are paying taxes or fees to another service provider, the City will cooperate with the Owners in pursuing exclusion of the Property from the service area of such service provider pursuant to section 32-1-502, C.R.S., such that the Property is no longer subject to payment of taxes or fees to such service provider. The intent of this Section 5.5 is that landowners within the Property will not be subject to duplicate taxes or fees if the City undertakes services provided by another service provider.

ARTICLE 6 **VESTED RIGHTS**

6.1 Intent. Development of the Project in accordance with the terms and conditions of the Development Plan will provide for orderly and well-planned growth, promote economic development and financial stability within the City, ensure reasonable certainty, stability and fairness in the land use planning process, secure the reasonable investment-backed expectations of Owners, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes of the Vested Property Rights Statute, the Vested Property Rights Regulations, and the City Code. Additionally, Owners will rely on the revenues to be provided pursuant to Article 5 of this Agreement in financing the cost of designing and constructing the Public Improvements, which will benefit the Project and advance the City's economic development and infrastructure development policies. The type and intensity of development contemplated in the Development Plan can be efficiently and effectively implemented, and the City's goals and policies can be implemented, only if realization of those development assumptions is insulated from non market risks to the extent practicable. In consideration of these benefits and the other benefits to the City contemplated by this Agreement, together with the public benefits served by the orderly and well-planned development of the Project, Owners desire to receive assurance that development of the Project may continue and proceed as contemplated by and pursuant to the terms and conditions of the Development Plan.

6.2 Site-Specific Development Plan. Notwithstanding any provision of the Vested Property Rights Regulations, as amended from time to time, which otherwise limits the types of

approvals that can constitute a Site Specific Development Plan or the duration of vested property rights, the PD Plan, this Agreement, and each constituent element of the Development Plan, individually and collectively, constitute a Site Specific Development Plan, pursuant to the Vested Rights Statute.

6.3 Vesting of Property Rights. During the Vesting Term, Owners and each Developer will have the right from time to time to construct, use and maintain on the Property any and all buildings, structures and other improvements of any kind or nature contemplated and/or permitted by the Development Plan. Unless modified through an amendment to any constituent element of the Development Plan pursuant to the amendment procedures set forth in this Agreement or otherwise approved by the City with the applicable Owner's or the applicable Developer's consent, the land use entitlements, development standards, design standards, revenue sharing and fee waiver agreements set forth in the Development Plan, including but not limited to the land uses, densities and intensities of use, building heights, allowed uses, land use regulations, parking ratios, open space requirements, signage and other development standards (collectively, the "**Vested Property Rights**") will govern zoning, subdivision and development of the Property, and will supersede any conflicting zoning, development standards or other provisions in the City Code as applied to the Property. Each amendment to any constituent element of the Development Plan that an Owner or Developer submits to the City subsequent to the commencement of the Vesting Period will, if so requested and if within the scope of what can be a Site Specific Development Plan under the Vested Property Rights Statute, be processed as a Site Specific Development Plan and, if approved by the City, will be supplemental and in addition to those Vested Property Rights initially established through this Agreement as of the commencement of the Vesting Period, and will be vested pursuant to the Vested Property Rights Statute and the Vested Property Rights Regulations for the duration of the Vesting Term.

6.4 Vesting Term. In recognition of the size of the development contemplated under this Agreement and the Development Plan, the substantial investment and time required to complete the development of the Project, the potential for phased development of the Project, the possible impact of economic cycles and varying market conditions during the course of development on the Project and the District Financing Plan, the term of the vested property rights established under this Agreement (the "**Vesting Term**") will commence on the Effective Date and will continue until the fortieth (40th) anniversary of the Effective Date, unless extended by mutual agreement of Owners and the City pursuant to the amendment procedure set forth in Section 8.1 below. After the expiration of the Vesting Term, the vested property rights established by this Agreement will be deemed terminated and of no further force or effect; provided, however, that such termination will have no effect on (a) any common-law vested rights obtained prior to such termination, or (b) any right, vested or otherwise, arising from permits, approvals or other entitlements for the Property or the Project which were granted or approved by the City prior to, concurrently with, or subsequent to the approval of this Agreement and the Development Plan.

6.5 Vesting of Property Rights. This Agreement, including the Development Plan and the Development Standards, constitutes an approved site Specific Development Plan. During the Vesting Term, the City will not enact any moratorium which affects development within the Property, will act in a manner consistent with the rights set forth below, and will refrain from taking action which adversely affects the Vested Property Rights. Subject to the

terms, conditions and limitations of the Vested Property Rights Statute, the Vested Property Rights include, without limitation of the scope established in the Vested Property Rights Statute:

A. The right to apply for and, upon compliance with the terms and conditions of the Development Plan, the City Code, and other applicable local, state or federal regulations (to the extent not inconsistent with any express provision of the Development Plan), to receive grading permits, building permits, certificates of occupancy, and other City permits necessary for development, construction and occupancy of the Site Improvements and other elements of the Project.

B. The right to develop, plan and engage in land uses within the Property and the Project in the order, at the rate and at such times as market conditions support, in a manner that is materially consistent with the terms and conditions of the Development Plan, including but not limited to those terms and conditions pertaining to the uses, density and intensity of use, development standards, design standards, technical standards, and Public Improvement and assurance of completion obligations incorporated therein.

C. The right to commence and complete development of the Property and the Project as provided in the Development Plan, and to the extent not inconsistent with any express provisions of the Development Plan, subject to conditions, standards and Dedications contained in the City Code which are no more onerous than those imposed by the City upon other developers in the City on a uniform, non-discriminatory and consistent basis.

D. The right to have the City process Development Applications pursuant to the procedures, terms, conditions and standards set forth in this Agreement, the Development Standards and the City Code.

6.6 Processing of Development Applications. Owners submitted an application for approval of the PD Plan on the Submittal Date. The PD Plan application constituted an “Application” as defined in the Vested Property Rights Statute. The PD Plan is a Site Specific Development Plan within the meaning of the Vested Property Rights Regulations and the Vested Property Rights Statute. Accordingly, during the Vesting Term, and except as this Agreement or the PD Plan expressly provides otherwise, the City will process all Development Applications in accordance with the procedures set forth in this Agreement and the PD Plan, and to the extent not addressed by the PD Plan or this Agreement, in accordance with the City Code. To the extent that any amendment to the City Code that is approved after the Submittal Date creates submittal requirements, procedural requirements, or approval criteria that expressly or implicitly conflict with the PD Plan or this Agreement, the terms and conditions of this Agreement and the PD Plan will control.

6.7 Applicability of Other Regulations. Except to the extent precluded by this Agreement or the Development Plan, the establishment of vested property rights under this Agreement will not restrict the application on a reasonably uniform and non-discriminatory basis of City regulations of general applicability (including, but not limited to, building, fire, plumbing and electrical and mechanical codes) or the application of programs mandated by state or federal

regulations, as all of such regulations exist on the Effective Date or may be enacted or amended after the Effective Date. Owners do not waive any rights they have to oppose the enactment or amendment of any such regulations, or to challenge the validity of regulations enacted after the Effective Date through proper legal means.

ARTICLE 7

DEFAULT; REMEDIES; TERMINATION

7.1 Default by City. A “breach” or “default” by the City under this Agreement will be defined as the City’s failure to fulfill or perform any express material obligation of the City stated in this Agreement.

7.2 Default by Owner; No Cross-Defaults. A “breach” or “default” by an Owner, a Developer or the Service District will be defined as the applicable Owner’s, the applicable Developer’s, or the Service District’s failure to fulfill or perform any express material obligation of that Owner, that Developer or the Service District stated in this Agreement. No default or breach by an Owner, any particular Developer or the Service District of any obligation of that Owner, that Developer or the Service District under this Agreement will be construed as or constitute a default or breach of any other Owner or any other Developer or constitute a basis for the City to assert or enforce any remedy against any Owner or any other Developer other than the particular Owner, Developer or the Service District whose action or failure to act constitutes or gives rise to the default or breach. No default or breach by an Owner or any particular Developer of any obligation of such Owner or such Developer arising under any agreement other than this Agreement will be construed as or constitute a default or breach of this Agreement or constitute a basis for the City to assert or enforce any remedy against any Owner, any other Developer or the Service District under the terms of this Agreement.

7.3 Notices of Default. In the event of a default by a party under this Agreement, the non-defaulting party(ies) will deliver written notice to the defaulting party of the default, at the address specified in Section 8.26 below, and the defaulting party will have 60 days from and after receipt of the notice to cure the default without liability for the default. If the default is not of a type which can be cured within such 60-day period and the defaulting party gives written notice to the non-defaulting party(ies) within such 60-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the 60-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. Notwithstanding the foregoing 60-day cure period, Owners and Developers will have the right to include a claim for breach of this Agreement in any claim brought under C.R.C.P. Rule 106 if an Owner or Developer believes that the failure to include such claim may jeopardize such Owner’s or Developer’s ability to exercise its remedies under this Agreement at a later date. Any claim for breach of this Agreement brought before the expiration of the applicable cure period will not be prosecuted by such Owner or Developer until the expiration of the applicable cure period, and will be dismissed by such Owner or Developer if the default is cured in accordance with this Section 7.3.

7.4 Remedies. If any default under this Agreement is not cured as described in Section 7.3 above, the non-defaulting party(ies) will have the right to enforce the defaulting

party's obligations hereunder by an action for injunction or specific performance. Additionally, if any default by the City of any material obligation under this Agreement is not cured as described in Section 7.3 above, the applicable Owner(s) or Developer(s) will be entitled to disconnection of their property pursuant to the procedures described in Section 5.2J. Although the Vested Property Rights Statute allows for payment of monetary damages in the event of a violation of a landowner's vested property rights, the Parties intend that the sole remedy for a violation of the vested property rights granted by this Agreement will be the equitable remedies of specific performance or mandatory or prohibitory injunction, and/or termination of this Agreement. To the extent the City may legally do so, the City hereby waives, for itself and its successors and assigns, any right it may have to pay money damages under the Vested Property Rights Statute upon a deprivation of Owners' vested property rights under this Agreement. To the extent Owners may legally do so, Owners hereby waive, for themselves and for any of its successors and assigns, including any successor Developer(s), any right they may have to receive money damages under the Vested Property Rights Statute upon a deprivation of their vested property rights under this Agreement. Notwithstanding the foregoing mutual waivers, Owners or an applicable Developer will be entitled to pursue and be awarded just compensation pursuant to section 105(1)(c) of the Vested Property Rights Statute if it is judicially determined that specific performance is not available as a remedy for a breach by the City of its obligations under this Agreement, to the extent that the breach constitutes a compensable action under the Vested Property Rights Statute. Each remedy provided for in this Agreement, including the specific remedies set forth in Sections 1.6 and 5.2J, are cumulative and are in addition to every other remedy provided for in this Agreement or otherwise existing at law, in equity or by statute. Nothing contained herein shall permit the City to unilaterally act to forfeit the vested rights established hereunder, whether pursuant to City ordinance, regulation or otherwise.

ARTICLE 8

MISCELLANEOUS

8.1 Authorization. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

8.2 Other Instruments. Unless otherwise specified herein, neither the execution of this Agreement, the consummation of the transactions contemplated hereunder, nor the fulfillment of or the compliance with the terms and conditions of this Agreement by each Party will conflict with or result in a breach of any terms, conditions, or provisions of, or constitute a default under, or result in the imposition of any prohibited lien, charge, or encumbrance of any nature under any agreement, instrument, indenture, or any judgment, order, or decree to which either Party hereto is a party or by which either Party is bound.

8.3 Repealer. All orders, bylaws, ordinances, and resolutions of the City or parts thereof inconsistent or in conflict with this Agreement are hereby repealed to the extent only of such inconsistency or conflict as applied to the Property.

8.4 Covenants. Each Party will keep and perform all of the covenants and agreements of such Party contained herein.

8.5 Cooperation in Defending Legal Challenges. If any legal or equitable action or other proceeding is commenced by a third party challenging the validity of any provision of this Agreement or the Development Plan, the Parties will cooperate in defending such action or proceeding and will each bear their own expenses in connection therewith. Unless the Parties otherwise agree, each Party will select and pay its own legal counsel to represent it in connection with such action or proceeding. Unless otherwise expressly set forth in this Agreement, during the pendency of any such Legal Challenge, the Parties will abide by and carry out all of the terms of this Agreement, unless otherwise ordered by a court of competent jurisdiction. If any Legal Challenge successfully voids, enjoins, or otherwise invalidates any constituent element of the Development Plan, or any portion thereof, the Parties will cooperate to cure the legal defect and to process to completion such instruments as may be necessary or desirable to most fully implement the intent and purpose of this Agreement.

8.6 Amendment of this Agreement.

A. Written Amendment Required. Except as otherwise set forth in this Agreement, this Agreement may be amended, terminated or superseded only by mutual consent in writing of the City and Owners (or any party or parties to whom an Owner has specifically granted in writing, such writing having been provided in advance to the City, the power to enter into such amendment), following the public notice and public hearing procedures required for approval of this Agreement. For avoidance of doubt, no such amendment will require the consent of the Service District, and the Service District will be bound by any such amendment. For the purposes of any amendment to this Agreement, “Owners” shall mean only North Canyons, LLLP, with respect to matters affecting only portions of the Property owned by North Canyons, LLLP, and Judge, Inc., with respect to matters only affecting portions of the Property owned by Judge, Inc.

B. Effectiveness and Recordation. Any such written amendment will be effective upon the later to occur of (i) execution by the City and Owners (or, if applicable, a party to whom such authority has been granted by an Owner pursuant to subsection A above) or (ii) the effective date of the ordinance or resolution approving such amendment. Promptly after any amendment to this Agreement becomes effective, the City will cause it to be recorded in the real property records of the Douglas County Clerk and Recorder. As between the Parties, the validity or enforceability of such an amendment will not be affected by any delay in or failure to record the amendment as provided herein.

8.7 Authorization of PD Plan Amendments. Amendments to the PD Plan and and/or rezonings applicable to all or any portion of the Property may be processed by the City only upon the written authorization of the Owners, or of any party or parties to whom an Owner has specifically granted, in writing, such writing having been provided in advance to the City, the power to authorize such amendment and/or rezoning. No consent of any third party (including other property owners within the Project) will be required for the negotiation and execution of any such amendment and/or rezoning. To the extent any such PD Plan amendment is in conflict with, or is otherwise inconsistent with, this Agreement, the City and Owners or the applicable Developer(s) will process a conforming amendment to this Agreement pursuant to Section 8.6 above. For the purposes of any amendment to the PD Plan, “Owners” shall mean only North

Canyons, LLLP, with respect to matters affecting only portions of the Property owned by North Canyons, LLLP, and Judge, Inc., with respect to matters only affecting portions of the Property owned by Judge, Inc.

8.8 Consent to Development Application. The City will not process any Development Application submitted to the City by a Developer or a District without the prior written consent of the Owners.

8.9 Recordation. This Agreement will not be recorded. Subject to the terms, conditions and limitations set forth in Section 2.2, a short form memorandum this Agreement will be recorded against the Property in the real property records of the Douglas County Clerk and Recorder in order to provide record notice of this Agreement. Each signatory to this Agreement will retain at least one fully executed counterpart original of this Agreement that contains a full set of Appendices.

8.10 Applicable Law. This Agreement will be construed and enforced in accordance with the laws of the State of Colorado.

8.11 Attorneys' Fees. If any action is filed or maintained by either party in relation to this Agreement, the prevailing party will be awarded to its costs and reasonable attorneys' fees. All rights concerning remedies or attorneys' fees will survive termination of this Agreement.

8.12 No Joint Venture or Partnership. No form of joint venture or partnership exists between the City and Owners, and nothing contained in this Agreement will be construed as making the City and Owners joint venturers or partners.

8.13 Waiver. No waiver of one or more of the terms of this Agreement will constitute a waiver of other terms. No waiver of any provision of this Agreement in any instance will constitute a waiver of such provision in other instances.

8.14 City Findings. The City hereby finds and determines that execution of this Agreement is in the best interests of the public health, safety, and general welfare and the provisions of this Agreement are consistent with the Comprehensive Plan and City Code. A court of competent jurisdiction is permitted to treat the Development Plan as a Site Specific Development Plan to the extent necessary to determine that the Vested Property Rights granted pursuant to this Agreement are legal and enforceable.

8.15 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement will continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining, or substantially deprive such Party of the benefit of its bargain.

8.16 Further Assurances. Each party will execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges under this Agreement.

8.17 Assignment; Binding Effect. This Agreement will be binding upon and, except as otherwise provided in this Agreement, will inure to the benefit of the successors in interest or the legal representatives of the Parties hereto. Owners may assign or transfer all or any portion of its interests, rights, or obligations under this Agreement to one or more of the Districts, or to third parties acquiring an interest or estate in the Property, including, but not limited to, joint venture partners, purchasers or long term ground lessees of individual Lots, parcels, or of any improvements now or hereafter located within the Property, provided that to the extent an Owner assigns any of its obligations under this Agreement, the assignee of such obligations will expressly assume such obligations and the City reasonably consents to such assignment. The City may withhold its consent only in the event the benefit of the City's bargain hereunder would be materially and adversely impaired by such assignment. The express assumption of any of an Owner's obligations under this Agreement by an assignee or transferee will thereby relieve such Owner of any further obligations under this Agreement, and will release the City from further obligation to such Owner, with respect to the matter so assigned and assumed.

8.18 Holidays. If the date for making any payment or performing any action hereunder falls on a legal holiday or a day on which the principal office of the City is authorized or required by law to remain closed, such payment may be made or act performed on the next succeeding day that is not a legal holiday or a day upon which the principal office of the City is authorized or required by law to remain closed.

8.19 Rights of Lenders and Interested Parties. The City is aware that financing for acquisition, development, construction and/or permanent financing of the Property may be provided in whole or in part, from time to time, by one or more third parties, including, without limitation, lenders. In the event of any asserted default by any Owner or any Developer, the City will provide notice of such asserted default, at the same time notice is provided to such Owner or to such Developer, to any such interested party previously identified in writing to the City by such Owner or such Developer. If such interested parties are permitted, under the terms of their agreement(s) with such Owner or such Developer to cure the default and/or to assume such Owner's or such Developer's position with respect to this Agreement, the City will recognize such rights of interested parties and to otherwise permit such interested parties to assume all of the rights and obligations of such Owner or such Developer under this Agreement.

8.20 No Third Party Beneficiaries/Third Party Agreements. Except as permitted in Section 8.19 of this Agreement and with respect to the rights and obligations of Developers and the Infrastructure Provider as expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended or will be construed to confer upon, or to give to, any legal person other than the Parties, any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all of the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties will be for the sole and exclusive benefit of the Parties.

8.21 Waiver. No waiver of one or more of the terms of the Agreement will constitute a waiver of other terms. No waiver of any provision of this Agreement in any instance will constitute a waiver of such provision in other instances.

8.22 Titles of Sections and Articles. Any titles of the several parts, articles and sections of this Agreement are inserted for convenience or reference only and will be disregarded in construing or interpreting any of its provisions.

8.23 Appendices and Attachments. All appendices and attachments to this Agreement will be incorporated herein and deemed a part of this Agreement.

8.24 Intent. Except as this Agreement expressly provides otherwise, appropriate credits, offsets and reimbursements will, to the full extent allowed by law, be provided to reimburse the applicable Owner and/or the applicable Developer(s) and/or the District(s) for the cost of providing Public Improvements which either: (a) the City would otherwise have been obligated to finance and provide and which are initially financed and provided by an Owner and/or the applicable Developer(s) and/or the District(s); and/or (b) serve and/or benefit development of property other than the Property; and/or (c) constitute a regional facility. No provision of this Agreement will be construed as an implied waiver of any right to any reimbursement to which an Owner or any Developer is entitled by law, or as an implied waiver or acquiescence in the impairment of any of substantive or procedural rights under section 29-20-201, *et seq.*, C.R.S., or as an implied agreement to be responsible for more than an equitable pro rata share of any Regional Facility or other Public Improvements that benefit real property other than the Property; provided, however, that Owners' express obligations under this Agreement will be enforceable.

8.25 Venue and Choice of Law; Construction. This Agreement will be construed according to the laws of the State of Colorado. Venue will be in Douglas County, Colorado. To reduce the cost of and to expedite the resolution of disputes under this Agreement, **the Parties (for themselves and their respective successors and assigns) hereby waive any and all right they may have to request a jury trial in any civil action relating primarily to the enforcement of this Agreement.** In the event of ambiguity in this Agreement, any rule of construction which favors one Parties' interpretation as a non-drafting party will not be applied, and the ambiguous provision will be interpreted as though neither party was the drafter.

8.26 Notices. Any notice or communication required under this Agreement between the City and Owners must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice will be deemed to have been given when delivered to the party to whom it is addressed. Any party hereto may at any time, by giving written notice to the other party hereto as provided in this Section, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the Parties at their addresses set forth below:

If to the City:

City of Castle Pines North
c/o City Council
558 Castle Pines Parkway, #B4-208
Castle Rock, Colorado 80108
Attention: Mayor

With a required copy to:

Widner Michow and Cox LLP
13133 E. Arapahoe Road, Suite 100
Centennial, Colorado 80112
Attention: Linda Michow

If to Owners:

North Canyons, LLLP
3033 East First Avenue, No. 501
Denver, Colorado 80206
Attention: Lee Alpert

With a required copy to:

Otten, Johnson, Robinson, Neff + Ragonetti, P.C.
950 Seventeenth Street, Suite 1600
Denver, Colorado 80202
Attention: Munsey Ayers

and to:

Judge, Inc.
3515 S. Tamarac Drive, Suite 300
Denver, CO 802037
Attention: Marc Cooper

With a required copy to:

Lottner Rubin Fishman Brown & Saul, PC
633 17th Street, Suite 2700
Denver, Colorado 80202
Attention: Alan Lottner

If to Canyons Metropolitan District No. 1:

White Bear Ankele, P.C.
1805 Shea Center Drive, Suite 100
Highlands Ranch, CO 80129
Attention: Gary White

With a required copy to:

c/o North Canyons, LLLP
3033 East First Avenue, No. 501
Denver, Colorado 80206
Attention: President

8.27 Authorization to Execute Documents. The Mayor, City Manager and the City Attorney will, and are hereby authorized and directed to, take all actions necessary or appropriate to effectuate the provisions of this Agreement including, but not limited to, such certificates and affidavits as may be reasonably required. The execution by the Mayor or the City Manager of any document authorized hereby will be conclusive proof of the approval by the City of the terms thereof.

8.28 Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.

[Signature Pages and Appendices Follow This Page]

IN WITNESS WHEREOF, Owners and the City have executed this Agreement as of the Effective Date.

CITY:

CITY OF CASTLE PINES NORTH, a Colorado municipal corporation

By: _____

Name: _____

Title: Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

STATE OF COLORADO)
) ss:
COUNTY OF DOUGLAS)

The foregoing instrument was subscribed and sworn to me by _____,
as Mayor, and _____ as City Clerk of the City Castle Pines North, Colorado, on this
_____ day of _____, 200__.

Witness my hand and official seal.

Notary Public
My Commission expires: _____

OWNERS:

NORTH CANYONS, LLLP, a Colorado limited liability limited partnership

By: _____
Name: _____
Title: _____

JUDGE, INC., a Colorado corporation

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2009, by _____, as _____ of North Canyons, LLLP, a Colorado limited liability limited partnership.

Witness my hand and official seal.

Notary Public
My Commission expires: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2009, by _____, as _____ of Judge, Inc., a Colorado corporation.

Witness my hand and official seal.

Notary Public
My Commission expires: _____

SERVICE DISTRICT:

CANYONS METROPOLITAN DISTRICT NO. 1,
a quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____

Name: _____

Title: _____

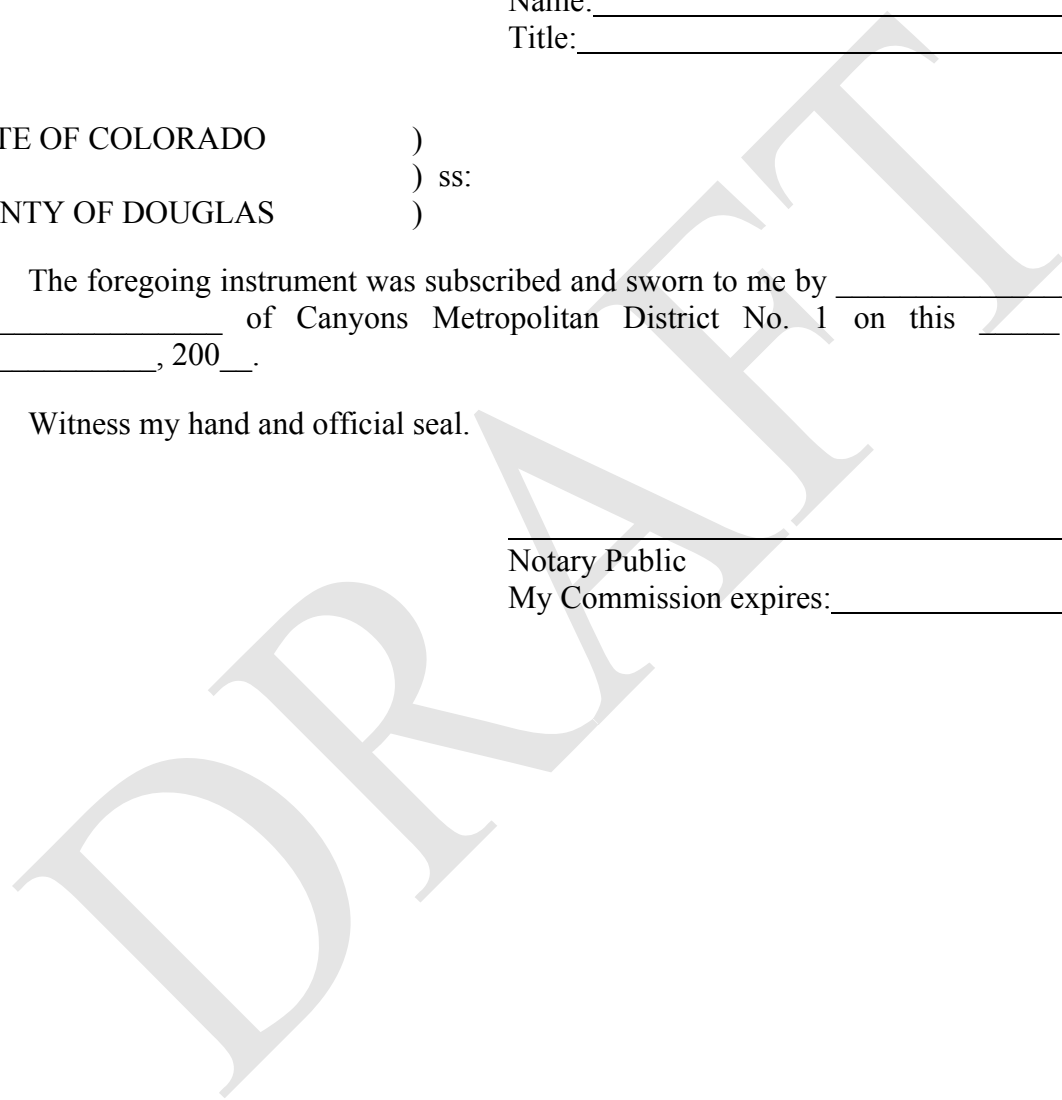
STATE OF COLORADO)
) ss:
COUNTY OF DOUGLAS)

The foregoing instrument was subscribed and sworn to me by _____,
as _____ of Canyons Metropolitan District No. 1 on this ____ day of
_____, 200__.

Witness my hand and official seal.

Notary Public

My Commission expires: _____



APPENDIX A
Definitions

For purposes of this Agreement, the following terms have the meanings indicated below.

(a) Agreement. This Annexation and Development Agreement between Owners and the City.

(b) Accrued Interest. Interest accrued at the per annum simple interest rate of [_____] % on the principal component of unreimbursed Eligible Costs which have been advanced to the Service District by Owners or other Developers pursuant to reimbursement agreements entered into for such purposes.

(c) Appendix(es). The following Appendices to this Agreement, all of which are incorporated by reference into and made a part of this Agreement.

Appendix A Definitions

Appendix B Legal Description of the Property

Appendix C Form of Certification for Reimbursement of Eligible Costs

Appendix D Form of Project SIA

Appendix E Form of Site SIA

(d) Association(s). As defined in Section 4.11B of this Agreement.

(e) City. The City of Castle Pines North, a Colorado municipal corporation.

(f) City Code. The City's municipal code, as amended from time to time unless expressly stated otherwise, including all documents, regulations and policies incorporated therein by reference.

(g) City Council. The City Council of the City of Castle Pines North.

(h) Comprehensive Plan. The comprehensive plan of the City as in effect from time to time.

(i) Construction Activities. Construction activities within the Project which are subject to the City's use tax, are subject to the Sales/Use Tax Credit pursuant to the terms of this Agreement, and are subject to the PIF pursuant to the terms the PIF Covenant.

(j) Credit PIF. The public improvements fee that is imposed pursuant to the PIF Covenant on Taxable Transactions at a rate equivalent to 50% of the City's sales tax rate as in effect from time to time, and which when applied to and collected on Taxable Transactions occurring during the Revenue Sharing Period will result in an offsetting credit against the City's sales tax and use tax obligation pursuant to the terms of the Sales/Use Tax Credit as provided in this Agreement. For avoidance of doubt, as of the Effective Date, the City's sales tax rate and

use tax rate are each set at the rate of 2.75%, resulting in an initial Credit PIF rate of 1.375%. If, by way of example, the City's sales tax and/or use tax rates were increased to 3.0%, the Credit PIF Rate would be increased to 1.5% (i.e., 50% of the 3.0% rate), and if the City's sales tax and/or use tax rates were reduced to 2.5%, the Credit PIF rate would be decreased to 1.25%.

(k) Credit PIF Revenues. The revenues generated from the Credit PIF, together with all interest earned thereon while on deposit with the PIF Collecting Agent/Trustee.

(l) Dedicate(d) or Dedication. The conveyance to the City of real property for a specified purpose, free and clear of all monetary liens and those non-monetary encumbrances that are not materially inconsistent with the purpose for which the City is acquiring the real property. A Dedication can be accomplished by recordation of a final subdivision plat or by execution and delivery of a special warranty deed together with a title insurance policy as described herein.

(m) Developer(s). Collectively or individually as indicated by the context, Owners and/or any successor owner of all or any part of the Property which has undertaken to construct Site Improvements and/or a portion of the Public Improvements (as evidenced by execution of the Project SIA, Site SIA or any SIPIA); provided, however, that no individual homeowner will be considered a Developer or subject to liability or any benefit as a Developer under this Agreement except to the extent such individual homeowner also has undertaken to construct a portion of the Public Improvements as evidenced by execution of the Project SIA, Site SIA and/or an SIPIA.

(n) Development Application. An application to the City for approval pursuant to the City Code for development of a Site including, without limitation, applications for (i) a site development plan, (ii) a preliminary or final subdivision plat, (iii) a grading permit, (iv) a construction permit, or (vi) any amendment (formal or administrative) to any of the foregoing.

(o) Development Plan. The following documents are components of the Development Plan for the Project, and collectively constitute the Development Plan:

- (i) This Agreement;
- (ii) The PD Plan;
- (iii) The Development Standards;
- (iv) Each preliminary plan or final subdivision plat or replat approved for the Property after the Effective Date;
- (v) Any Project SIA executed after the Effective Date;
- (vi) Any Site SIA executed after the Effective Date;
- (vii) Any SIPIA executed after the Effective Date;

(viii) Any other document so designated by the Parties pursuant to amendment to this Agreement; and

(ix) To the extent provided by this Agreement, any amendment to any of the documents listed in clauses (i) through (viii) above, whether approved as an administrative or a formal amendment.

(p) Development Standards. Collectively, the standards, criteria and processes set forth in this Agreement, together with the development terms set forth in any component of the Development Plan.

(q) District(s). As defined in Section 4.11A of this Agreement.

(r) Effective Date. The date on which recordation of the annexation ordinances and annexation maps for the Property occurs in accordance with section 31-12-113(2)(C)(II)(A), C.R.S. subject to the terms, conditions and limitations set forth in Section 2.2 of this Agreement.

(s) Eligible Costs. The following, subject to the terms, limitations and conditions set forth in Section 5.2B of this Agreement:

(i) The principal amount of the actual direct and indirect design and construction costs (engineering, construction engineering, construction survey and construction (labor and materials), administrative overhead, etc.), or acquisition costs, of the Eligible Improvements, whether paid directly by the Service District, funded from advances by Owner(s) or Developer(s), or funded through intergovernmental agreements between the Service District and other Districts, governmental entities or quasi-governmental entities;

(ii) Accrued Interest; and

(iii) Financing Costs.

(t) Eligible Improvements. Those Public Improvements that are eligible to be financed or acquired by the Service District with Credit PIF Revenues, the general categories of which are set forth in Section 5.2A.

(u) Final Approval. As applied to an ordinance, resolution or other action of the City, the fortieth (40th) day after publication following final action by the City Council without a Legal Challenge occurring on or before such fortieth (40th) day; provided, however, that Owners may waive in writing the foregoing limitation, in which case Final Approval will be deemed to have occurred.

(v) Financing Costs. Collectively, principal, interest and costs of issuance of District bonds or other District financing instruments issued to fund the Eligible Improvements, in whole or in part. For purposes of this Section (v), costs of issuance may include, but are not limited to, underwriting discount, placement agent and financial advisor fees, legal fees, reserve funds and capitalized interest.

(w) Infrastructure Provider. As designated by Owners from time to time in their sole discretion pursuant to the PIF Covenant, the entity to which Owners assign the right to receive and utilize the Credit PIF Revenues pursuant to the PIF Covenant and this Agreement, which entity is intended to initially be the Service District and may subsequently be a District or a public improvement company formed by Owners for such purpose.

(x) Legal Challenge. Either: (1) any third party commences any legal proceeding or other action that directly or indirectly challenges this Agreement, annexation of the Property, the PD Plan or any of the City's resolutions or ordinances approving annexation of the Property, this Agreement or the PD Plan; or (2) any third party submits a petition for a referendum or initiative seeking to reverse or nullify any of such ordinances.

(y) Lot. A parcel of land within the Project established by a recorded final subdivision plat and intended as a unit for the transfer of ownership or development pursuant to this Agreement and the Development Plan.

(z) Master Traffic Study. The Canyons Master Transportation Study prepared by Fehr & Peers, dated _____ 2009, as approved by the City in connection with its approval of the PD Plan, and as updated or supplemented from time to time in accordance with the terms and conditions of this Agreement and the City Code.

(aa) Owner(s). Individually or collectively as indicated by the context, North Canyons, LLLP, a Colorado limited liability limited partnership, and Judge Inc., a Colorado corporation.

(bb) Party(ies). Individually or collectively, the original signatories to this Agreement.

(cc) PD Plan. The Canyons Planned Development for the Project approved by the City as Case _____, and which is a Site Specific Development Plan within the meaning of the Vested Property Rights Regulations and the Vested Property Rights Statute.

(dd) Phase I Drainage Report. The Phase I Drainage Report for the Canyons prepared by Nolte Associates, dated April 2009, and revised June 2009, as approved by the City in connection with its approval of the PD Plan, and as updated or supplemented from time to time in accordance with the terms and conditions of this Agreement.

(ee) PIF Collecting Agent/Trustee. The entity to be engaged by the Service District as the collecting agent and trustee for disbursement and accounting of Credit PIF Revenues pursuant to a PIF Collection Services and Trustee Agreement as in effect from time to time, and which is authorized to undertake the duties of the PIF Collecting Agent/Trustee as described in this Agreement.

(ff) PIF Collection Services and Trustee Agreement. An agreement pursuant to which the PIF Collecting Agent/Trustee will collect, disburse and account for the Credit PIF Revenues in accordance with the terms, limitations and conditions of this Agreement and of the PIF Covenant.

(gg) PIF Covenant. That certain privately imposed Declaration of Covenants Imposing and Implementing the Canyons Public Improvements Fee to be recorded by Owners as a covenant burdening and benefiting the Property, as amended from time to time in accordance with its terms.

(hh) Planning Area. A planning area within the Property as depicted on the PD Plan.

(ii) Project. The planned development project to be developed on the Property as generally described in Recital C of the Agreement and more particularly described in the PD Plan.

(jj) Project SIA. One or more subdivision improvement agreement(s) for the backbone infrastructure to be constructed in connection with development of the Project as set forth in this Agreement, to be executed in substantially the form attached as Appendix D.

(kk) Project Team. The person or persons designated by the applicable Developer and by the City to be responsible for processing a particular Development Application pursuant to the terms and conditions of Section 3.3B of this Agreement.

(ll) Property. The real property which is legally described in Appendix B.

(mm) Public Improvement(s). Any and all infrastructure as required by the Project SIA or any Site SIA or SIPIA, whether publicly or privately owned, including, without limitation, streets, water distribution lines, sanitary sewer collection lines, stormwater management and water quality systems, utilities and traffic control devices.

(nn) Revenue Sharing Period. As defined in Section 5.2B(iii) of this Agreement.

(oo) Sales/Use Tax Credit. The credit against City's use tax (on building materials only) and City's sales tax on Taxable Transactions occurring within the Property, which the City has enacted concurrently with approving this Agreement, in an amount equal to the amount of Credit PIF Revenues imposed and collected on such Taxable Transactions and subsequently received by the PIF Collecting Agent/Trustee at all times during the Revenue Sharing Period.

(pp) Service District. Canyons Metropolitan District No. 1, which will undertake to fund the design and construction of the Eligible Improvements and to utilize the Credit PIF Revenues for Eligible Costs in accordance with the terms and conditions of this Agreement and the PIF Covenant.

(qq) SIPIA. A site improvement plan improvement agreement as may be required in connection with approval of a site improvement plan in accordance with Section 27 of the Zoning Ordinance and Section 6A of the Subdivision Ordinance.

(rr) Site. One or more Lot(s) or other tract(s) or parcel(s) of real property within the Project, the development or improvement of which is governed by the Development Plan.

(ss) Site Improvements. Building, structures and other private improvements constructed or to be constructed on a Site and for which a certificate of occupancy or similar permit is required, but excluding any Public Improvements located or to be located on such Site.

(tt) Site SIA. A subdivision improvement agreement for the Public Improvements to be constructed in connection with development of a particular Site or Sites as set forth in this Agreement, to be executed in substantially the form attached as Appendix E.

(uu) Site Specific Development Plan. As defined in the Vested Property Rights Regulations.

(vv) Subdivision Ordinance. The subdivision regulations of the City Code, as amended from time to time, unless expressly stated otherwise, including all documents, regulations and policies incorporated therein by reference.

(ww) Submittal Date. May 5, 2009, which is the date upon which Owners, through their authorized representatives, submitted their application for approval of the PD Plan.

(xx) Superblock. A legally conveyable parcel created pursuant to the Superblock Plat process.

(yy) Superblock Plat(s). As more specifically described in Section 3.2B of this Agreement, a final plat pursuant to which portions of the Property may be subdivided into large blocks which are legally conveyable as separate parcels, but which may be required to be replatted at a later date into individual lots prior to development of Site Improvements.

(zz) Taxable Transaction(s). The sale or provision of goods or services which are subject to the City's use taxes (on building materials only) and/or City's sales taxes.

(aaa) Vested Property Rights. As defined in Section 6.3 of this Agreement.

(bbb) Vested Property Rights Regulations. Section 34 of the City Code.

(ccc) Vested Property Rights Statute. Sections 24-68-101, *et seq.*, of the Colorado Revised Statutes in effect as of the Submittal Date.

(ddd) Vesting Term. As defined in Section 6.4 of this Agreement.

(eee) Zoning Ordinance. The zoning regulations of the City Code, as amended from time to time, unless expressly stated otherwise, including all documents, regulations and policies incorporated therein by reference.

APPENDIX B
Legal Description of the Property

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APPENDIX C
Form of Certification for Reimbursement of Eligible Costs

REQUISITION/CERTIFICATION NO. _____

[*PIF Collecting Agent/Trustee*]

[*address*]

[*address*]

[*address*]

Re: Requisition for Reimbursement of Eligible Costs for Union

Pursuant to Section ___ of the PIF Collecting Agent and Trustee Agreement, dated as of _____, 200__ (the "**PIF Trustee Agreement**"), between [*Owner*], [*Service District*] and [*PIF Collecting Agent/Trustee*], [*Service District*] hereby requests [*PIF Collecting Agent/Trustee*] to disburse Credit PIF Revenues from the Credit PIF Trust Account as detailed on the attached Appendix A and/or Appendix B.

The Credit PIF Revenues so disbursed will be used pursuant to and in accordance with the provisions of the Agreement (as defined in the PIF Collection Services and Trustee Agreement). The Eligible Costs for which reimbursement is requested are proper charges against the Credit PIF Trust Account and have not been the basis of any previous Requisition. If this Requisition requests reimbursement of the principal, it is accompanied by a completed Appendix A certified by a licensed and registered Colorado civil engineer and if this Requisition requests reimbursement of Accrued Interest and/or Financing Costs (as those terms are defined in the PIF Collection Services and Trustee Agreement), it is accompanied by a completed Appendix B. The signature of the authorized officer of the requesting entity set forth below certifies that the amounts set forth in Appendix A and/or Appendix B actually have been incurred and are Eligible Costs for reimbursement from the Credit PIF Trust Account in accordance with the terms, limitations and conditions of the Agreement and the PIF Collection Services and Trustee Agreement. A copy of this Requisition has been forwarded to the Finance Director of the City of Arvada in accordance with the provisions of the Agreement and the PIF Collection Services and Trustee Agreement. Appendix A will be accompanied by copies of paid invoices or paid construction payment applications. Each of the documents will include a numerical notation in the upper right-hand corner coinciding with the appropriate Appendix A line item and the documents will be organized in this numerical order.

The total amount submitted for reimbursement to the requesting entity through the date hereof, including the amount requested by this Requisition, is \$ _____, consisting of \$ _____ of principal and \$ _____ of Accrued Interest and \$ _____ of Financing Costs. The total amount actually received by the requesting entity to date is \$ _____, consisting of \$ _____ of principal and \$ _____ of Accrued Interest and \$ _____ of Financing Costs.

WITNESS my hand this _____ day of _____, 20__.

[*Service District*]

Authorized Officer

DRAFT

**Appendix B to Requisition/Certification No. ____
 Schedule of Accrued Interest/Financing Costs**

Description of Accrued Interest/Financing Costs Calculation	Total Amount of Accrued Interest	Total Amount of Financing Costs
Total for this Certification:		

DRAFT

DRAFT

APPENDIX D
Form of Project SIA

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APPENDIX E
Form of Site SIA

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